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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 2018

Issue#	Rules Due Date	Date of Issue
1	December 26, 2017	January 5, 2018
2	January 2, 2018	January 12, 2018
3	January 8, 2018	January 19, 2018
4	January 16, 2018	January 26, 2018
5	January 22, 2018	February 2, 2018
6	January 29, 2018	February 9, 2018
7	February 5, 2018	February 16, 2018
8	February 13, 2018	February 23, 2018
9	February 20, 2018	March 2, 2018
10	February 26, 2018	March 9, 2018
11	March 5, 2018	March 16, 2018
12	March 12, 2018	March 23, 2018
13	March 19, 2018	March 30, 2018
14	March 26, 2018	April 6, 2018
15	April 2, 2018	April 13, 2018
16	April 9, 2018	April 20, 2018
17	April 16, 2018	April 27, 2018
18	April 23, 2018	May 4, 2018
19	April 30, 2018	May 11, 2018
20	May 7, 2018	May 18, 2018
21	May 14, 2018	May 25, 2018
22	May 21, 2018	June 1, 2018
23	May 29, 2018	June 8, 2018
24	June 4, 2018	June 15, 2018
25	June 11, 2018	June 22, 2018

26	June 18, 2018	June 29, 2018
27	June 25, 2018	July 6, 2018
28	July 2, 2018	July 13, 2018
29	July 9, 2018	July 20, 2018
30	July 16, 2018	July 27, 2018
31	July 23, 2018	August 3, 2018
32	July 30, 2018	August 10, 2018
33	August 6, 2018	August 17, 2018
34	August 13, 2018	August 24, 2018
35	August 20, 2018	August 31, 2018
36	August 27, 2018	September 7, 2018
37	September 4, 2018	September 14, 2018
38	September 10, 2018	September 21, 2018
39	September 17, 2018	September 28, 2018
40	September 24, 2018	October 5, 2018
41	October 1, 2018	October 12, 2018
42	October 9, 2018	October 19, 2018
43	October 15, 2018	October 26, 2018
44	October 22, 2018	November 2, 2018
45	October 29, 2018	November 9, 2018
46	November 5, 2018	November 16, 2018
47	November 13, 2018	November 26, 2018
48	November 19, 2018	November 30, 2018
49	November 26, 2018	December 7, 2018
50	December 3, 2018	December 14, 2018
51	December 10, 2018	December 21, 2018
52	December 17, 2018	December 28, 2018

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Long Term Care Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 153
- 3) Section Number: 153.125 Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: This proposed amendment implements PA 100-587 by: 1) increasing the reimbursement rate under the Medical Assistance Program for facilities licensed under the ID/DD Community Care Act and the MC/DD Act by an amount sufficient to provide, at minimum, a \$0.50 per hour wage increase to front-line personnel and 2) increasing the per diem rate by \$21.15 for facilities with more than 16 beds licensed by the Department of Public Health under the ID/DD Community Care Act [210 ILCS 47] and located in the Department of Public Health's Planning Area 7-B.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Christopher Gange
Acting General Counsel

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

HFS.Rules@illinois.gov

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 153

LONG TERM CARE REIMBURSEMENT CHANGES

Section

153.100	Reimbursement for Long Term Care Services
153.125	Long Term Care Facility Rate Adjustments
153.126	Long Term Care Facility Medicaid Per Diem Adjustments
153.150	Quality Assurance Review (Repealed)

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

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17817, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 11088, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to the Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; emergency expired November 27, 2006; amended at 30 Ill. Reg. 14315, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 18779, effective November 28, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 6954, effective April 26, 2007; emergency amendment at 32 Ill. Reg. 535, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 4105, effective March 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7761, effective May 5, 2008; amended at 32 Ill. Reg. 9972, effective June 27, 2008; amended at 33 Ill. Reg. 9347, effective July 1, 2009; emergency amendment at 34 Ill. Reg. 17462, effective November 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 6171, effective March 28, 2011; amended at 35 Ill. Reg. 19524, effective December 1, 2011; emergency amendment at 36 Ill. Reg. 10416, effective July 1, 2012 through June 30, 2013; amended at 36 Ill. Reg. 17405, effective December 1, 2012; amended at 37 Ill. Reg. 10529, effective June 27, 2013; emergency amendment at 38 Ill. Reg. 15732, effective July 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 23799, effective December 2, 2014; emergency amendment at 39 Ill. Reg. 6956, effective May 1, 2015 through June 30, 2015; emergency amendment at 41 Ill. Reg. 12632, effective September 25, 2017, for a maximum of 150 days; amended at 42 Ill. Reg. 4594, effective February 20, 2018; emergency amendment at 42 Ill. Reg. 16562, effective August 27, 2018, for a maximum of 150 days; amended at 42 Ill. Reg. _____, effective _____.

Section 153.125 Long Term Care Facility Rate Adjustments

- a) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates established on July 1, 1996 shall be increased by 6.8 percent for services provided on or after January 1, 1997.
- b) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1998, for services provided on or after that date, shall be increased by three percent. For nursing facilities (SNF/ICF) only, \$1.10 shall also be added to the nursing component of the rate.

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- c) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1999, for services provided on or after that date, shall include:
- 1) an increase of 1.6 percent for SNF/ICF, ICF/MR and developmental training rates;
 - 2) an additional increase of \$3.00 per resident day for ICF/MR rates; and
 - 3) an increase of \$10.02 per person, per month for developmental training rates.
- d) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF rates shall be increased by \$4.00 per resident day for services provided on or after October 1, 1999.
- e) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF, ICF/MR and developmental training rates shall be increased 2.5 percent per resident day for services provided on or after July 1, 2000.
- f) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2001 shall be computed using the most recent cost reports on file with the Department no later than April 1, 2000, updated for inflation to January 1, 2001.
- 1) The Uniform Building Value shall be as defined in 89 Ill. Adm. Code 140.570(b)(10), except that, as of July 1, 2001, the definition of current year is the year 2000.
 - 2) The real estate tax bill that was due to be paid in 1999 by the nursing facility shall be used in determination of the capital component of the rate. The real estate tax component shall be removed from the capital rate if the facility's status changes so as to be exempt from assessment to pay real estate taxes.
 - 3) For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

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- 4) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under Section 153.125(f) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- g) Notwithstanding the provisions set forth in Section 153.100, intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), shall receive an increase in rates for residential services equal to a statewide average of 7.85 percent. Residential rates taking effect March 1, 2001, for services provided on or after that date, shall include an increase of 11.01 percent to the residential program rate component and an increase of 3.33 percent to the residential support rate component, each of which shall be adjusted by the geographical area adjuster, as defined by the Department of Human Services (DHS).
- h) For developmental training services provided on or after March 1, 2001, for residents of long term care facilities, rates shall include an increase of 9.05 percent and rates shall be adjusted by the geographical area adjuster, as defined by DHS.
- i) Notwithstanding the provisions set forth in Section 153.100, daily rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 2.247 percent for services provided during the period beginning on April 11, 2002, and ending on June 30, 2002.
- j) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2002, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be reduced to the level of the rates in effect on April 10, 2002.
- k) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2002 will be 5.9 percent less than the rates in effect on June 30, 2002.
- l) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2003, for intermediate care facilities for persons with developmental

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disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3.59 percent.

- m) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on July 1, 2003 shall be increased by 4 percent.
- n) Notwithstanding the provisions set forth in Section 153.100, pending the approvals described in this subsection (n), nursing facility (SNF/ICF) rates effective July 1, 2004 shall be 3.0 percent greater than the rates in effect on June 30, 2004. The increase is contingent on approval of both the payment methodologies required under Article 5A-12 of the Public Aid Code [305 ILCS 5/5A-12] and the waiver granted under 42 CFR 433.68.
- o) Notwithstanding the provisions set forth in Section 153.100, the "Original Building Base Cost" for nursing facilities (SNF/ICF) which have been rented continuously from an unrelated party since prior to January 1, 1978, effective on July 1, 2004, shall be added to the capital rate calculation using the most recent cost reports on file with the Department no later than June 30, 2004. The "Original Building Base Cost" as defined in 89 Ill. Adm. Code 140.570 shall be calculated from the original lease information that is presently on file with the Department. This original lease information will be used to capitalize the oldest available lease payment from the unrelated party lease that has been in effect since prior to January 1, 1978, and continued to be in effect on December 31, 1999. Before the lease payment is capitalized, a 15 percent portion will be removed from the oldest available lease payment for movable equipment costs. After the lease payment is capitalized, a portion of the capitalized amount will be removed for land cost. The land cost portion is 4.88 percent. The remaining amount will be the facility's building cost. The construction/acquisition year for the building will be the date the pre-1978 lease began. The allowable cost of subsequent improvements to the building will be included in the original building base cost. The original building base cost will not change due to sales or leases of the facility after January 1, 1978.
- p) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on January 1, 2005 will be 3.0 percent more than the rates in effect on December 31, 2004.
- q) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates shall be increased by the difference between a facility's per diem

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property, liability and malpractice insurance costs as reported in the cost report that was filed with the Department and used to establish rates effective July 1, 2001, and those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations.

- r) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on January 1, 2006 for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3 percent.
- s) Notwithstanding the provisions set forth in Section 153.100, developmental training rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), effective on January 1, 2006 shall be increased by 3 percent.
- t) Notwithstanding the provisions set forth in Section 153.100, for facilities that are federally defined as Institutions for Mental Disease (see Section 145.30), a socio-development component rate equal to 6.6% of the nursing component rate as of January 1, 2006 shall be established and paid effective July 1, 2006. This rate shall become a part of the facility's nursing component of the Medicaid rate. While this rate may be adjusted by the Department, the rate shall not be reduced.
- u) Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the support component of the rates taking effect on January 1, 2008 shall be computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006.
 - 1) Support rates taking effect on January 1, 2008 shall be adjusted based on audits of cost report data in accordance with 89 Ill. Adm. Code 140.582(b) and 140.590. The audited cost report data will be used to retroactively update the resulting support rate effective January 1, 2008, after the 45-day appeal period from Section 140.582(b) has passed.
 - 2) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under this subsection (u) shall be kept for a

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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minimum of two years after the Department's final payment using rates that were based in part on that cost report.

- v) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning August 1, 2008, the socio-development component for facilities that are federally defined as Institutions for Mental Disease (see 89 Ill. Adm. Code 145.30) shall equal 6.6% of the facility's nursing component rate as of January 1, 2006, multiplied by a factor of 3.53.
- w) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning January 1, 2009, the support component for skilled and intermediate care facilities that was effective on January 1, 2008, computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard Department of Healthcare and Family Services methods, procedures and inflators described in Sections 140.533, 140.551, 140.553 and 140.561.
- x) Notwithstanding the provisions set forth in Section 153.100, effective November 1, 2010, the program and support components of the per diem rate for ICF/MR qualifying under 89 Ill. Adm. Code 144.102 shall be adjusted in accordance with that Section.
- y) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 96-1530, for services beginning May 1, 2011, the socio-development component for facilities that are federally defined as Institutions for Mental Disease (IMD) (see 89 Ill. Adm. Code 145.30) and that are Medicaid certified will have the nursing component of their rate fully funded using the MDS methodology and will also receive an increase to their socio-development component rate. The socio-development component rate increase will be equal to two-thirds of the difference between the highest nursing rate among the Medicaid certified IMD facilities and the individual IMD's nursing rate. This rate change is subject to approval by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.
- z) Notwithstanding the provisions set forth in Section 153.100, effective for services beginning May 1, 2011, facilities that are federally defined as Institutions for Mental Disease (see 89 Ill. Adm. Code 145.30) and determined to be Subpart T

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

facilities (see 89 Ill. Adm. Code 145.10) will receive an increase to their socio-development component rate of \$.50 per day, per resident.

- aa) Notwithstanding the provisions set forth in Section 153.100, effective for services beginning August 1, 2017, facilities licensed by the Department of Public Health under the ID/DD Community Care Act [210 ILCS 47] as an ID/DD facility and medically complex for the developmentally disabled facilities licensed under the MC/DD Act [210 ILCS 46] as an MC/DD facility will receive an increase to their reimbursement rates sufficient to provide a \$0.75 per hour wage increase for non-executive staff. This increase shall apply to the facility per diem rates and developmental training rates.
- bb) Notwithstanding the provisions set forth in Section 153.100, effective for services beginning July 1, 2018, facilities licensed by the Department of Public Health under the ID/DD Community Care Act [210 ILCS 47] or MC/DD Act [210 ILCS 46] will receive an increase to the facility per diem rates and developmental training rates as follows:
- 1) Facilities outside the geographic boundaries of the City of Chicago will receive an increase to their reimbursement rates sufficient to provide a \$0.50 per hour wage increase for front-line personnel.
 - 2) Facilities inside the geographic boundaries of the City of Chicago will receive an increase to their reimbursement rates sufficient to provide a \$0.54 per hour wage increase for front-line personnel.
- cc) Notwithstanding the provisions set forth in Section 153.100, pursuant to 305 ILCS 5/5-5.4 (Public Act 100-0587), effective for services beginning July 1, 2018, the per diem rate will be increased by \$21.15 for facilities with more than 16 beds licensed by the Department of Public Health under the ID/DD Community Care Act [210 ILCS 47] and located in the Department of Public Health's Planning Area 7-B.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Operation and Record Keeping
- 2) Code Citation: 35 Ill. Adm. Code 607
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
607.103	Repealed
607.104	Repealed
- 4) Statutory Authority: Implementing Section 17 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/17, 27, 28].
- 5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency (IEPA) proposed that the Board adopt a new Part 604 entitled "Design, Operation and Maintenance Criteria," including emergency operation and cross connection requirements. IEPA proposes to repeal the corresponding two Sections of Part 607, which are the final two Sections remaining in the Part.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: In the Statement of Reasons filed with its proposed rules, IEPA stated that it "did not consult with a published study or research report when developing this proposal." IEPA added that it "did not perform any new studies, nor did the Agency contract with any outside entities to perform any studies for the development of this rulemaking proposal."
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period

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NOTICE OF PROPOSED REPEALER

of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed with the Clerk of the Board.

Public comments must be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website (pcb.illinois.gov). Public comments should refer to docket R18-17. Comments may also be submitted to:

Clerk's Office
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Suite 11-500
Chicago IL 60601

Interested persons may obtain copies of the Board's opinion and order in R18-17 from the Board's website (pcb.illinois.gov) and may also call the Clerk's office at 312/814-3620.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposal may affect any entity that owns, operates, or serves as official custodian for a community water supply, although it proposes to repeal Part 607.
 - B) Reporting, bookkeeping or other procedures required for compliance: The proposed revisions repeal Part 607 and require no procedures for compliance.
 - C) Types of professional skills necessary for compliance: The proposed revisions repeal Part 607 and do not require professional skills for compliance.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2017

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARDPART 607
OPERATION AND RECORD KEEPING (REPEALED)

Section

607.101	Protection During Repair Work (Repealed)
607.102	Disinfection Following Repair or Reconstruction (Repealed)
607.103	Emergency Operation
607.104	Cross Connections
607.105	Laboratory Testing Equipment (Repealed)
607.106	Record Maintenance (Repealed)

607.APPENDIX References to Former Rules (Repealed)

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17 and 27].

SOURCE: Filed with Secretary of State January 1, 1978; amended and codified at 6 Ill. Reg. 11497, effective September 14, 1982; amended in R88-26 at 14 Ill. Reg. 16512, effective September 20, 1990; amended in R95-17 at 20 Ill. Reg. 14423, effective October 22, 1996; amended in R96-18 at 21 Ill. Reg. 6553, effective May 8, 1997; repealed in R18-17 at 42 Ill. Reg. _____, effective _____.

Section 607.101 Protection During Repair Work (Repealed)**Section 607.102 Disinfection Following Repair or Reconstruction (Repealed)****Section 607.103 Emergency Operation**

- a) Whenever contamination is determined to persist in a public water supply, as demonstrated by microbiological analysis results, the owners or official custodians of the supply shall notify all consumers to boil for five minutes all water used for drinking or culinary purposes. This boil order shall remain in effect until microbiological samples demonstrate that the water is safe for domestic use, or until appropriate corrective action approved by the Agency is taken. If the owner or official custodian of the supply fails to take such action on

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

his own or at the recommendation of the Agency, the Agency may issue a boil order directly to the consumers affected.

- b) Any emergency which results in water pressures falling below twenty pounds per square inch on any portion of the distribution system shall be reason for immediate issuance of a boil order by the owner or official custodian of the supply to those consumers affected unless:
 - 1) There is a historical record of adequate chlorine residual and approved turbidity levels in the general area affected covering at least twelve monthly readings;
 - 2) Samples for bacteriological examination are taken in the affected area immediately and approximately twelve hours later; and
 - 3) Tests for residual chlorine and turbidity taken at not more than hourly intervals in the affected area for several hours do not vary significantly from the historical record. If significant decrease in chlorine residual or increase in turbidity occurs, a boil order shall be issued.
- c) Whenever the safety of a supply is endangered for any reason, including but not limited to spillage of hazardous substances, the Agency shall be notified immediately by the owner, official custodian or his authorized representative, and the supply officials shall take appropriate action to protect the supply. The owner, official custodian or his authorized representative shall notify all consumers of appropriate action to protect themselves against any waterborne hazards. If the owner or official custodian of the supply fails to take such action on his own or at the recommendation of the Agency, the Agency shall notify directly the consumers affected.

Section 607.104 Cross Connections

- a) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency, except as provided for in subsection (d) of this Section.
- b) There shall be no arrangement or connection by which an unsafe substance may enter a supply.

POLLUTION CONTROL BOARD

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- c) Control of all cross-connections to a supply is the responsibility of the owner or official custodian of the supply. If a privately owned water supply source meets the applicable criteria, it may be connected to a water supply upon approval by the owner or official custodian and by the Agency. Where such connections are permitted, it is the responsibility of the public water supply officials to assure submission from such privately owned water supply source or sources samples and operating reports, as required by 35 Ill. Adm. Code 611 as applicable to the cross-connected source.
- d) The Agency may adopt specific conditions for control of unsafe cross-connections, which shall be complied with by the supplies of this State, as applicable. These conditions shall be adopted and/or changed by the Agency as prescribed in 35 Ill. Adm. Code 602.115.
- e) Each community water supply exempted pursuant to 35 Ill. Adm. Code 603.104 or Section 17(b) of the Act shall provide an active program approved by the Agency to continually educate and inform water supply consumers regarding prevention of the entry or contaminants into the distribution system. Conditions under which the Agency will approve this active program shall be adopted or changed by the Agency as prescribed in 35 Ill. Adm. Code 602.115.

Section 607.105 Laboratory Testing Equipment (Repealed)**Section 607.106 Record Maintenance (Repealed)****Section 607.APPENDIX A References to Former Rules (Repealed)**

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System
- 2) Code Citation: 80 Ill. Adm. Code 1650
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1650.481	Amendment
1650.482	Amendment
1650.483	Amendment
1650.484	Amendment
1650.485	Amendment
- 4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16].
- 5) A Complete Description of the Subjects and Issues Involved: Amendments to 1650.481-485 will implement the 6% to 3% change to the employer excess cost threshold as required by PA 100-587 which was effective June 4, 2018. These amendments establish the calculation method applicable to the 3% employer excess cost; set forth the circumstances which would result in an otherwise exempt agreement losing its exemption from the 3% employer excess cost threshold; and establishes the maximum time period for exemptions from the 3% employer cost threshold for those who notify their TRS covered employer of an intent to retire under either an exempt contract or policy.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed amendment may be submitted in writing for a period of 45 days following publication of this Notice to:

Marcilene Dutton
Teachers' Retirement System
2815 West Washington,
P.O. Box 19253
Springfield IL 62794-9253

217/814-2041

- 13) Initial Regulatory Flexibility Analysis: These rules will not affect small businesses.
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

PART 1650

THE ADMINISTRATION AND OPERATION OF THE
TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section

1650.10 Annual Financial Report (Repealed)

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section

1650.110 Membership Records
1650.120 Claims Records (Repealed)
1650.130 Individual Accounts (Repealed)
1650.140 Ledger and Accounts Books (Repealed)
1650.150 Statistics (Repealed)
1650.160 Confidentiality of Records
1650.180 Filing and Payment Requirements
1650.181 Early Retirement Incentive Payment Requirements (Repealed)
1650.182 Waiver of Additional Amounts Due
1650.183 Definition of Employer's Normal Cost

SUBPART C: FILING OF CLAIMS

Section

1650.201 Disability Benefits – Application Procedure; Effective Date
1650.202 Disability Benefits – Definitions
1650.203 Disability Retirement Annuity – Definitions
1650.204 Gainful Employment – Consequences
1650.205 Medical Examinations and Investigation of Disability Claims
1650.206 Physician Certificates
1650.207 Disability Due to Pregnancy
1650.208 Disability Payments
1650.209 Computation of Annual Salary When Member Has Different Semester Salary

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

	Rates (Repealed)
1650.210	Claim Applications
1650.211	Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
1650.220	Reclassification of Disability Claim (Repealed)
1650.221	When Member Becomes Annuitant
1650.222	Death Out of Service
1650.230	Medical Examinations and Investigations of Claims (Repealed)
1650.240	Refunds; Canceled Service; Repayment
1650.250	Death Benefits
1650.260	Evidence of Age
1650.270	Reversionary Annuity – Evidence of Dependency
1650.271	Evidence of Parentage
1650.272	Eligible Child Dependent By Reason of a Physical or Mental Disability
1650.280	Evidence of Marriage
1650.290	Offsets

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section	
1650.301	Early Retirement Without Discount – Return to Teaching from a Break in Service
1650.310	Effective Date of Membership
1650.315	Verifying Service Credit
1650.320	Method of Calculating Service Credits
1650.325	Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330	Duplicate Service Credit
1650.335	Unreported Regular Service Credit and Earnings
1650.340	Service Credit for Leaves of Absence
1650.341	Service Credit for Involuntary Layoffs
1650.345	Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346	Service Credit for Periods Away From Teaching Due to Adoption
1650.350	Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.351	Employer Contribution for Excess Sick Leave
1650.355	Purchase of Optional Service – Required Minimum Payment
1650.356	Payroll Deduction Program (Repealed)
1650.357	Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360	Settlement Agreements and Judgments
1650.370	Calculation of Average Salary (Renumbered)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1650.380 Definition of Actuarial Equivalent (Repealed)
- 1650.390 Independent Contractors
- 1650.391 Optional 2.2 Upgrade of Earned and Credited Service
- 1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section

- 1650.410 Return of Contributions for Duplicate or Excess Service
- 1650.415 Return of Optional Increase in Retirement Annuity Contributions
- 1650.416 Optional Increase in Retirement Annuity – 1% Contribution Reduction
- 1650.417 Mandatory Distributions Pursuant to Section 401(a)(9) of the Internal Revenue Code
- 1650.420 Interest on Deficiencies (Repealed)
- 1650.430 Installment Payments (Repealed)
- 1650.440 Small Deficiencies, Credits or Death Benefit Payments (Repealed)
- 1650.450 Compensation Recognized As "Salary"
- 1650.451 Reporting of Conditional Payments
- 1650.460 Calculation of Average Salary
- 1650.470 Rollover Distributions
- 1650.480 Rollovers to the System
- 1650.481 Employer Contribution Required for Salary Increases in Excess of 6% or 3%
- 1650.482 Contracts and Collective Bargaining Agreements – Loss of Exemption from Employer Contributions
- 1650.483 Employer Contributions for Salary Increases in Excess of 6% and Excess Sick Leave – Exemption from Contributions
- 1650.484 Members Not Covered by Collective Bargaining Agreements or Employment Contracts
- 1650.485 Employer Contributions for Salary Increases in Excess of 6% or 3% – Receipt of Bill
- 1650.486 Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance

SUBPART F: ANNUITANTS AND BENEFICIARIES

Section

- 1650.505 Beneficiary (Repealed)
- 1650.510 Re-entry Into Service (Repealed)
- 1650.511 Separation from Service

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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1650.512	Verification of Compliance with Post-Retirement Employment Limitations
1650.520	Suspension of Benefits
1650.530	Power of Attorney
1650.540	Conservators/Guardians
1650.550	Presumption of Death
1650.560	Benefits Payable on Death
1650.561	Valid Beneficiary Designations
1650.570	Survivors' Benefits
1650.571	Payment of Monthly Survivor Benefits to a Trust
1650.575	Full-time Student – Receipt of Survivors Benefits Until Age 22
1650.580	Evidence of Eligibility
1650.590	Comptroller Offset
1650.595	Overpayments

SUBPART G: ATTORNEY GENERALS' OPINION

Section	
1650.605	Policy of the Board Concerning Attorney Generals' Opinion (Repealed)

SUBPART H: ADMINISTRATIVE REVIEW

Section	
1650.610	Staff Responsibility
1650.620	Right of Appeal
1650.630	Form of Written Request
1650.635	Presiding Hearing Officer – Duties and Responsibilities
1650.640	Prehearing Procedure
1650.641	Claims Hearing Committee Hearing Packet
1650.650	Hearing Procedure
1650.660	Rules of Evidence (Repealed)

SUBPART I: AMENDMENTS TO BYLAWS AND RULES

Section	
1650.710	Amendments

SUBPART J: RULES OF ORDER

Section	
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TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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1650.810 Parliamentary Procedure

SUBPART K: PUBLIC RECORD REQUESTS

Section

1650.910 Summary and Purpose (Repealed)
1650.920 Definitions (Repealed)
1650.930 Submission of Requests
1650.940 Form and Content of FOIA Requests (Repealed)
1650.950 Appeal of a Denial (Repealed)
1650.960 Executive Director's Response to Appeal (Repealed)
1650.970 Response to FOIA Requests (Repealed)
1650.980 Inspection of Records at System Office
1650.990 Copies of Public Records
1650.995 Materials Immediately Available

SUBPART L: BOARD ELECTION PROCEDURES

Section

1650.1000 Nomination of Candidates
1650.1001 Elections Date/Election Day – Defined
1650.1010 Petitions
1650.1020 Eligible Voters
1650.1030 Election Materials
1650.1040 Marking of Ballots
1650.1050 Return of Ballots
1650.1060 Observation of Ballot Counting
1650.1070 Certification of Ballot Counting
1650.1080 Challenges to Ballot Counting
1650.1090 Special Election to Fill Un-Expired Term of Elected Trustee

SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

1650.1110 Definitions
1650.1111 Requirements for a Valid Qualified Illinois Domestic Relations Order
1650.1112 Requirements for a Valid QILDRO Calculation Order
1650.1113 Required Forms
1650.1114 Filing a QILDRO or a Calculation Order with the System

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- 1650.1115 Benefits Affected by a QILDRO
- 1650.1116 Effect of a Valid QILDRO
- 1650.1117 QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1650.1118 Alternate Payee's Address
- 1650.1119 Electing Form of Payment
- 1650.1120 Automatic Annual Increases
- 1650.1121 Reciprocal Systems QILDRO Policy Statement (Repealed)
- 1650.1122 Providing Benefit Information for Divorce Purposes
- 1650.1123 Suspension and Expiration of a QILDRO
- 1650.1124 Income Tax Reporting
- 1650.1125 Lump-Sum Death Benefit Allocation to Alternate Payee

SUBPART N: PAYROLL DEDUCTION PROGRAM

Section

- 1650.1200 Payroll Deduction Program Guidelines (Repealed)
- 1650.1201 Employer Responsibility Under the Payroll Deduction Program (Repealed)
- 1650.1202 Payroll Deduction Agreements – Suspensions and Terminations (Repealed)
- 1650.1203 Payroll Deduction Program – Full Time Employment Defined (Repealed)
- 1650.1204 Payroll Deduction Program – Disability Defined (Repealed)
- 1650.1205 Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance (Repealed)

SUBPART O: RETIREMENT BENEFITS

Section

- 1650.2900 Excess Benefit Arrangement

SUBPART P: COMPETITIVE SELECTION PROCEDURES
FOR INVESTMENT SERVICES

Section

- 1650.3000 Summary and Purpose
- 1650.3005 Definitions
- 1650.3010 Public Markets Manager Database
- 1650.3015 Emerging Investment Managers
- 1650.3017 Candidate Profile for Investment Manager Searches
- 1650.3020 Public Market Searches
- 1650.3025 Small and Mid Cap Equity Searches

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1650.3030	Private Market and Commingled Fund Searches
1650.3032	Co-Investment Opportunities
1650.3035	Private Market Real Estate Separate Account Searches
1650.3040	Consultant Searches
1650.3045	Evaluation by Investment Committee

SUBPART Q: PLAN QUALIFICATION

Section

1650.3100	Summary and Purpose
1650.3105	Exclusive Benefit Rule
1650.3110	USERRA (Uniformed Services Employment and Reemployment Rights Act (38 USC 4301-4335)) Compliance
1650.3115	Required Minimum Distributions
1650.3120	Federal Contribution and Benefit Limitations
1650.3125	Mortality Tables and Interest Rates

SUBPART R: TIER II MEMBERS AND ANNUITANTS

Section

1650.3200	Definitions
1650.3220	Automatic Increase in Tier II Disability Benefits
1650.3221	Tier II Disability Retirement Annuity Final Average Salary
1650.3222	Tier II Disability Retirement Annuity Calculation
1650.3230	Contributions for Tier II Members with Reciprocal Earnings

AUTHORITY: Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5/Arts. 1 and 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg.

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15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective January 27, 2000; amended at 24 Ill. Reg. 10300, effective June 26, 2000; amended at 25 Ill. Reg. 203, effective December 22, 2000; amended at 26 Ill. Reg. 2758, effective February 11, 2002; amended at 26 Ill. Reg. 11476, effective July 11, 2002; amended at 27 Ill. Reg. 1668, effective January 17, 2003; amended at 27 Ill. Reg. 9209, effective May 28, 2003; amended at 28 Ill. Reg. 10055, effective June 29, 2004; amended at 29 Ill. Reg. 1546, effective January 14, 2005; amended at 29 Ill. Reg. 13244, effective August 9, 2005; amended at 30 Ill. Reg. 194, effective December 23, 2005; amended at 30 Ill. Reg. 472, effective December 21, 2005; amended at 30 Ill. Reg. 11728, effective June 23, 2006; amended at 30 Ill. Reg. 17525, effective October 18, 2006; amended at 31 Ill. Reg. 10688, effective July 13, 2007; amended at 32 Ill. Reg. 4073, effective February 28, 2008; amended at 32 Ill. Reg. 7979, effective May 6, 2008; amended at 32 Ill. Reg. 13534, effective August 6, 2008; amended at 33 Ill. Reg. 4401, effective March 3, 2009; amended at 33 Ill. Reg. 15863, effective November 2, 2009; amended at 34 Ill. Reg. 4900, effective March 22, 2010; amended at 34 Ill. Reg. 7787, effective May 21, 2010; amended at 35 Ill. Reg. 2413, effective January 21, 2011; amended at 35 Ill. Reg. 2788, effective January 25, 2011; amended at 35 Ill. Reg. 3781, effective February 18, 2011; amended at 35 Ill. Reg. 19541, effective November 18, 2011; amended at 36 Ill. Reg. 7688, effective May 4, 2012; amended at 36 Ill. Reg. 18914, effective December 14, 2012; amended at 37 Ill. Reg. 5150, effective April 4, 2013; amended at 38 Ill. Reg. 21239, effective October 21, 2014; amended at 39 Ill. Reg. 5259, effective March 20, 2015; amended at 39 Ill. Reg. 14989, effective October 30, 2015; amended at 40 Ill. Reg. 14099, effective September 28, 2016; amended at 41 Ill. Reg. 718, effective January 11, 2017; amended at 41 Ill. Reg. 14256, effective November 8, 2017; amended at 42 Ill. Reg. 13666, effective June 29, 2018; amended at 42 Ill. Reg. _____, effective _____.

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section 1650.481 Employer Contribution Required for Salary Increases in Excess of 6% or 3%

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- a) The employer contribution required under 40 ILCS 5/16-158(f) will be determined as follows:
- 1a) Calculate the member's monthly benefit using salaries as reported, excluding that part of the member's salary that exceeds the member's annual full-time salary rate with the same employer for the preceding year by more than 20%.
 - 2b) Calculate the member's monthly benefit using salaries as reported, excluding that part of the member's salary that exceeds the member's salary with the same employer for the preceding year by more than 6%.
 - 3e) Subtract (a)(2b) from (a)(1a).
 - 4d) Multiply (a)(3e) by a Monthly Benefit Factor for the member's exact age at the retirement date. The Monthly Benefit Factors are based on the actuarial assumptions of the System for life expectancy and investment return as determined by the System's actuaries at five year intervals pursuant to 40 ILCS 5/16-176.
 - 5e) If a member's monthly benefit is calculated pursuant to 40 ILCS 5/16-133(a), this Section will not apply.
 - 6f) If there is more than one employer during the final average salary period, each employer will pay its respective contribution based on salary increases granted by that employer in excess of 6%.
 - 7g) If the member's benefit is increased as a result of applying the provisions of Section 20 of the Retirement Systems Reciprocal Act [40 ILCS 5/20], no additional employer contribution will be due.
 - 8h) If the member's benefit is reduced as a result of applying proportional reductions required by 40 ILCS 5/20-124, no employer contribution will be assessed for any salaries attributable to any reciprocal employment used in the calculation.

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- 9i) If the average salary is calculated using salary earned through employment covered by another participating system under 40 ILCS 5/20, no employer will be assessed for any salaries attributable to that employment.
- 10j) The member's salary for any school year used to determine final average salary shall be excluded for purposes of determining the employer contribution required for salary increases in excess of 6% in any year in which the member's creditable earnings are less than 50% of the preceding year's mean salary for downstate teachers as determined by the survey of school district salaries provided in Section 2-3.103 of the School Code.
- b) The employer contribution required under 40 ILCS 5/16-158(f-1) will be determined as follows:
- 1) Calculate the member's monthly benefit using salaries as reported, excluding that part of the member's salary that exceeds the member's annual full-time salary rate with the same employer for the preceding year by more than 20%.
 - 2) Calculate the member's monthly benefit using salaries as reported, excluding that part of the member's salary that exceeds the member's salary with the same employer for the preceding year by more than 3%.
 - 3) Subtract (b)(2) from (b)(1).
 - 4) Multiply (b)(3) by a Monthly Benefit Factor for the member's exact age at the retirement date. The Monthly Benefit Factors are based on the actuarial assumptions of the System for life expectancy and investment return as determined by the System's actuaries pursuant to 40 ILCS 5/16-176.
 - 5) If a member's monthly benefit is calculated pursuant to 40 ILCS 5/16-133(a), this Section will not apply.
 - 6) If there is more than one employer during the final average salary period, each employer will pay its respective contribution based on salary increases granted by that employer in excess of 3%.

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- 7) If the member's benefit is increased as a result of applying the provisions of Section 20 of the Retirement Systems Reciprocal Act [40 ILCS 5/20], no additional employer contribution will be due.
- 8) If the member's benefit is reduced as a result of applying proportional reductions required by 40 ILCS 5/20-124, no employer contribution will be assessed for any salaries attributable to any reciprocal employment used in the calculation.
- 9) If the average salary is calculated using salary earned through employment covered by another participating system under 40 ILCS 5/20, no employer will be assessed for any salaries attributable to that employment.
- 10) The member's salary for any school year used to determine final average salary shall be excluded for purposes of determining the employer contribution required for salary increases in excess of 3% in any year in which the member's creditable earnings are less than 50% of the preceding year's mean salary for downstate teachers as determined by the survey of school district salaries provided in Section 2-3.103 of the School Code.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1650.482 Contracts and Collective Bargaining Agreements – Loss of Exemption from Employer Contributions

A contract or collective bargaining agreement shall lose its exemption from employer contributions under 40 ILCS 5/16-128(d-10), ~~and/or~~ 16-158(f), and/or 16-158(f-1) upon the following:

- a) An increase in an existing salary or sick leave retirement incentive or the addition of a new salary or sick leave retirement incentive.
- b) A renegotiated increase in salary (excluding employer payment of the .40% of salary toward the cost of the early retirement without discount option under 40 ILCS 5/16-152(a)(4)) or sick leave unless specifically provided for in a salary reopener provision in the contract or collective bargaining agreement or as permitted in Section 1650.483(c).

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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- c) Failure to follow the retirement incentive age, service, notification or payment provisions contained in the contract, collective bargaining agreement or policy.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1650.483 Employer Contributions for Salary Increases in Excess of 6% or 3% and Excess Sick Leave – Exemption from Contributions

- a) The exemptions from employer contributions provided under 40 ILCS 5/16-128(d-10) and 40 ILCS 5/16-158(f) for those members who notify their employer of the intent to retire under the terms of an exempt contract or collective bargaining agreement but do not receive such incentives until after the expiration of the contract or collective bargaining agreement shall cease no later than three school years after the expiration of the contract or collective bargaining agreement or June 30, 2011, whichever is earlier.
- b) The exemptions from employer contributions provided under 40 ILCS 5/16-158(f-1) for those members who notify their employer of the intent to retire under the terms of an exempt contract or collective bargaining agreement but do not receive such incentives until after the expiration of the contract or collective bargaining agreement shall cease no later than four consecutive school years after the expiration of the contract or collective bargaining agreement.
- cb) If a contract or collective bargaining agreement terminates or is amended during the school year, for the purpose of calculating the employer contribution:
- 1) If the contract or collective bargaining agreement expires July 1 through December 31, the System will consider the expiration date to be the last day of the prior fiscal year.
 - 2) If the contract or collective bargaining agreement expires January 1 through June 29, the System will consider the expiration date to be the last day of the current fiscal year.
- de) An amendment to an exempt contract or collective bargaining agreement to reduce a retirement incentive for purposes of 40 ILCS 5/16-128(d-10), ~~or 16-158(f)~~, or 16-158(f-1) shall not terminate an employer's exempt status.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 1650.484 Members Not Covered by Collective Bargaining Agreements or Employment Contracts

- a) For members not covered by collective bargaining agreements or employment contracts, the System will accept employment policies as evidence of a contractual agreement under which salary increases paid and sick leave granted shall be exempt from employer contributions under 40 ILCS 5/16-128(d-10) and 16-158(f), provided those policies were in effect prior to June 1, 2005.
- ~~b) Such policies must have been in effect prior to June 1, 2005.~~
- ~~be) Employees operating under employment policies will be deemed to be employed under a one school year contract for exemption from employer contribution purposes under 40 ILCS 5/16-128(d-10) and 16-158(f) unless the salary increases and/or granting of sick leave under the policy are governed by provisions in the employer's collective bargaining agreement, in which case the employer exemption shall end at the same time the exemption ends for that collective bargaining agreement.~~
- c) For members not covered by collective bargaining agreements or contracts, the System will accept employment policies in effect prior to June 4, 2018 as evidence of a contractual agreement under which salary increases paid shall be exempt from employer contributions under 40 ILCS 5/16-158(f-1).
- d) Payments made to employees operating under an employment policy in effect prior to June 4, 2018 will be exempt from the provisions of 40 ILCS 5/16-158(f-1) if notice was provided as required by the employment policy prior to June 4, 2018 and payments are made pursuant to the term of the policy prior to June 30, 2022.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1650.485 Employer Contributions for Salary Increases in Excess of 6% or 3% – Receipt of Bill

For purposes of determining the 30 day period to dispute the amount of a bill for an employer contribution for salary increases in excess of 6% or 3% and the 90 day interest grace period provided in 40 ILCS 5/16-158(f) and 16-158(f-1), an employer shall be deemed to have received

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a bill for employer contributions on the first day of the month following the bill date indicated on the bill.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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- 1) Heading of the Part: Angel Investment Credit Program
- 2) Code Citation: 14 Ill. Adm. Code 531
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
531.20	Amendment
531.30	Amendment
531.40	Amendment
531.50	Amendment
531.55	New Section
531.60	Amendment
531.70	Amendment
531.80	Amendment
531.90	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 220 of the Illinois Income Tax Act [35 ILCS 5/220].
- 5) Effective Date of Rules: August 21, 2018
- 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 rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 5932; April 6, 2018.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Grammatical and stylistic changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department amended this rule to implement PA 100-328 and clarify application and compliance provisions.
- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
500 East Monroe
Springfield IL 62701

217/557-1820

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE C: ECONOMIC DEVELOPMENT
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITYPART 531
ANGEL INVESTMENT CREDIT PROGRAM

Section	
531.10	Purpose
531.20	Definitions
531.30	Tax Credit Directives
531.40	Application Requirements
531.50	Application Review and Approval
531.55	Allocation of Tax Credits
531.60	Qualified New Business Registration Guidelines
531.70	Tax Credit Certificate
531.80	Reporting and Tracking Procedures
531.90	Noncompliance

AUTHORITY: Implementing and authorized by Section 220 of the Illinois Income Tax Act [35 ILCS 5/220].

SOURCE: Emergency rule adopted at 35 Ill. Reg. 535, effective December 27, 2010; emergency expired May 25, 2011; adopted at 35 Ill. Reg. 8999, effective June 1, 2011; amended at 42 Ill. Reg. 16493, effective August 21, 2018.

Section 531.20 Definitions

The following definitions are applicable to the Angel Investment Credit Program.

"Act" means the Illinois Income Tax Act [35 ILCS 5].

~~"Angel investment" means a contribution of property, at a risk of loss, to a qualified new business venture as defined in the Act in exchange for stock, a partnership interest, or other ownership interest in the qualified new business venture. For the purposes of this definition, an investment is at risk of loss if its repayment depends entirely upon the success of the business operations of the qualified new business venture.~~

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"Applicant" means a corporation, partnership, limited liability company, or a natural person that makes an investment in a qualified new business venture. The term "applicant" does not include a corporation, partnership, limited liability company, or a natural person who has a direct or indirect ownership interest of at least 51% in the profits, capital, or value of the qualified new business venture receiving the investment or a related member. [35 ILCS 5/220(a)]

"Claimant" means an applicant certified by the Department who files a claim for a credit under Section 531.50. [35 ILCS 5/220(a)]

"Contingent equity investment" means money (or its equivalent) given to a qualified new business venture in consideration for a future equity interest that matures or converts to equity within three years after the investment. If the agreement governing investment does not provide for mandatory and unconditional conversion within three years after the investment, the investment will not be considered a contingent equity investment. Contingent equity investments that have features of a debt instrument may be ineligible for a tax credit if the agreement contains unreasonable risk mitigation provisions, as determined by the Department.

"Department" means the Illinois Department of Commerce and Economic Opportunity. [35 ILCS 5/220(a)]

"Employee" means an individual who is ~~a full-time employee and who is~~ employed for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment. Annually scheduled periods for inventory or repairs, vacations, holidays and paid time for sick leave, vacation or other leave is included in this computation of full-time employment. An individual for whom a W-2 is issued by a Professional Employer Organization (PEO) is a full-time employee if employed in the service of the applicant for consideration for at least 35 hours each week or who renders to the applicant any other standard of service generally accepted by industry custom or practice as full-time employment. For example, an employee who works 25 hours per week meets the industry standard for full-time in the package delivery industry, and an employee who is employed for a least 35 hours per week during the historical seasonal production meets the industry standard for full-time in the candy manufacturing industry.

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"Full-time equivalent job" means the number of hours worked by multiple employees to equal the number of hours worked by one full-time employee. For purposes of this definition, full-time employee means a person who works a minimum of 35 hours per week for a minimum of 13 consecutive weeks to be counted toward full-time equivalency.

"Investment" means money (or its equivalent) given to a qualified new business venture, at a risk of loss, in consideration for an equity interest of the qualified new business venture. [35 ILCS 5/220(a)] For the purposes of this definition, an investment is at risk of loss if its repayment depends entirely upon the success of the business operations of the qualified new business venture. A contingent equity investment is an investment.

"Liquidity event" means any event that would be considered an exit for an illiquid investment, including any event that allows the equity holders of the business (or any material portion of the business) to cash out some or all of their respective equity interests. [35 ILCS 5/220(i)(3)]

"Minimum employment threshold" means:

at least 51% of the business' employee positions are in Illinois; and

at least 75% of the business' employee positions created following receipt of the investment are located in Illinois.

"Qualified new business venture" means a business that is registered with the Department under Section 531.60. [35 ILCS 5/220(a)]

"Qualifying liquidity event" means a liquidity event in which the claimant does not convey an equity interest to the qualified new business venture or a related member of the qualified new business venture.

"Related member" means a person that, with respect to the term "applicant" investment, is any one of the following:

An individual, if the individual and the members of the individual's family (as defined in section 318 of the Internal Revenue Code (26 USC 318)) own directly, indirectly, beneficially, or constructively, in the aggregate,

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at least 50% of the value of the outstanding profits, capital, stock, or other ownership interest in the recipient of the applicant's investment~~applicant~~.

A partnership, estate or trust and any partner or beneficiary, if the partnership, estate or trust and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock or other ownership interest in the recipient of the applicant's investment~~applicant~~.

A corporation and any party related to the corporation in a manner that would require an attribution of stock from the corporation under the attribution rules of section 318 of the Internal Revenue Code (26 USC 318), if the applicant and any other related member own, in the aggregate, directly, indirectly, beneficially, or constructively, at least 50% of the value of the ~~corporation's~~ outstanding stock of the recipient of the applicant's investment.

A corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code if the corporation and all such related parties own, in the aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the recipient of the applicant's investment~~applicant~~.

A person to or from whom there is attribution of ~~stock~~ ownership of the stock of the recipient of the applicant's investment in accordance with section 1563(e) of the Internal Revenue Code (26 USC 1563(e)), except that, for purposes of determining whether a person is a related member under this paragraph, "20%" shall be substituted for "5%" whenever "5%" appears in section 1563(e) of the Internal Revenue Code. [35 ILCS 5/220(a)]

"Unreasonable risk mitigation provisions" means investment terms that remove a significant degree of the risk of loss, as determined by the Department, during the three years following the investment. Examples of these provisions include provisions for interest payments, security, and priority in the event of liquidation.

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(Source: Amended at 42 Ill. Reg. 16493, effective August 21, 2018)

Section 531.30 Tax Credit Directives

- a) *For taxable years beginning after December 31, 2010 and ending on or before December 31, ~~2021~~2016, subject to the limitations provided in the Act, a claimant may claim, as a credit against the tax imposed under ~~subsections (a) and (b) of~~ Section 201 (a) and (b) of the Act, an amount equal to 25% of the claimant's investment made directly in a qualified new business venture. The credit under this Section may not exceed the taxpayer's Illinois income tax liability for the taxable year. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In the case of a partnership or subchapter S corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under sections 702 and 704 and subchapter S of the Internal Revenue Code (26 USC 702, 704 and subchapter S). [35 ILCS 5/220(b)]*
- b) *The minimum amount an applicant must invest in any single qualified new business venture in order to be eligible for a credit under the Act is \$10,000. The maximum amount of an applicant's total investment in any single qualified new business venture that may be used as the basis for a credit under the Act is \$2,000,000 ~~for each investment made directly in a qualified new business venture.~~ [35 ILCS 5/220(c)]*
- c) *The aggregate amount of the tax credits that may be claimed under the Act for investments made in qualified new business ventures shall be limited at \$10,000,000 per calendar year, of which \$1,000,000 will be reserved for certain qualified new business ventures as set forth in Section 531.55. [35 ILCS 5/220(f)]*
- d) *A claimant may not sell or otherwise transfer a credit award under the Act to another person or entity. [35 ILCS 5/220(g)]*

(Source: Amended at 42 Ill. Reg. 16493, effective August 21, 2018)

Section 531.40 Application Requirements

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- a) In order to qualify for a tax credit certificate under the Act, an applicant must adhere to the requirements established by the Department. The Department will provide interested applicants with information upon request. Submittal of a tax credit claimant~~an~~ application does not commit the Department to award a tax credit or to pay any costs incurred by the applicant in the preparation of an application. Applications are valid only for the calendar year quarter in which they are submitted to the Department.
- b) All applications shall be submitted to the Department. The application shall at a minimum include:
- 1) The name, address, email, and telephone number of applicant; key contact and title; applicant Social Security Number or Federal Employer Identification Number (FEIN);
 - 2) The total amount of ~~aggregate private equity investment~~ the claimant has made in the qualified new business venture~~in cash or investment received since formation;~~
 - 3) A complete copy of the agreement governing the investment;
 - 4) Proof, as determined by the Department, that the investment has been made;
 - 5) Any other provisions or information the Department determines necessary to facilitate the Department's evaluation.
- c) The applicant is responsible for the accuracy of all data, information and documentation submitted to the Department.
- d) Except for information mandated to be reported to the General Assembly, any ~~Any~~ materials or data made available or received by any agent or employee of the Department shall be deemed confidential and shall not be deemed public records to the extent that the materials or data consist of trade secrets, commercial or financial information regarding the operation of the business conducted by the applicant for, or recipient of, any tax credit under the Act.

(Source: Amended at 42 Ill. Reg. 16493, effective August 21, 2018)

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Section 531.50 Application Review and Approval

- a) The Department shall accept applications after January 1, 2011 and via the procedures established by the Department. Applications will be reviewed in order received at the Department's Springfield office or electronically at Angelinvestment@illinois.gov. Application tracking procedures shall be determined and established at the discretion of the Department.
- b) *After receipt of an application and upon satisfactory review, the Department shall issue a tax credit certificate stating the amount of the tax credit. [35 ILCS 5/220(d)]*
- c) *On a form provided by the Department, the claimant must annually report and certify that claimant's investment has been made and remains in the qualified new business venture. Upon satisfactory review, the Department shall annually certify that:*
- 1) each qualified new business venture that receives an investment under this Section has maintained a minimum employment threshold in the State (and continues to maintain a minimum employment threshold in the State for a period of no less than 3 years from the issue date of the last tax credit certificate issued by the Department with respect to that business); and*
 - 2) the claimant's investment has been made and remains in the qualified new business venture for no less than 3 years, except in the event of a qualifying liquidity event. [35 ILCS 5/220(d)]*

(Source: Amended at 42 Ill. Reg. 16493, effective August 21, 2018)

Section 531.55 Allocation of Tax Credits

- a) *The aggregate amount of the tax credits that may be claimed under the Angel Investment Credit Program for investments made in qualified new business ventures shall be limited at \$10,000,000 per calendar year. [35 ILCS 5/220(f)]*
- b) *Of the \$10,000,000 in tax credits that may be claimed and allocated to applicants, \$500,000 shall be reserved for investments made in qualified new business ventures that are "minority-owned businesses", "women-owned businesses", or "businesses owned by a person with a disability" (as those terms are used and*

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defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575/2]), and an additional \$500,000 shall be reserved for investments made in qualified new business ventures with their principal place of business in counties with a population of not more than 250,000. [35 ILCS 5/220(f)]

- c) The foregoing annual allowable amounts shall be allocated by the Department, on a per calendar quarter basis and prior to the commencement of each calendar year, in such proportion as determined by the Department, provided that:
- 1) the amount initially allocated by the Department for any one calendar quarter shall not exceed \$3,500,000; and
 - 2) any portion of the allocated allowable amount remaining unused as of the end of any of the first 2 calendar quarters of a given calendar year shall be rolled into, and added to, the total allocated amount for the next available calendar quarter. [35 ILCS 5/220(f)]
- d) The Department may roll over any unused credits at the end of the third calendar quarter into the fourth calendar quarter.

(Source: Added at 42 Ill. Reg. 16493, effective August 21, 2018)

Section 531.60 Qualified New Business Registration Guidelines

- a) *A business desiring registration shall submit an application to the Department in each taxable year for which the business desires registration. [35 ILCS 5/220(e)]*
- b) *The Department may register the business only if the business satisfies all of the following conditions:*
 - 1) *It has its principal place of business~~headquarters~~ in this State;*
 - 2) *At least 51% of the employees employed by the business are employed in this State;*
 - 3) *It has the potential for increasing jobs in this State, increasing capital investment in this State, or both, as determined by the Department, and either of the following apply:*

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- A) *It is principally engaged in innovation in any of the following: manufacturing; biotechnology; nanotechnology; communications; agricultural sciences; clean energy creation or storage technology; processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology; or providing services that are enabled by applying proprietary technology; or*
- B) *It is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying proprietary technology;*
- 4) *It is not principally engaged in real estate development; insurance; banking; lending; lobbying; political consulting; professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants; wholesale or retail trade; leisure; hospitality; transportation; or construction, except construction of power production plants that derive energy from a renewable energy resource, as defined in Section 1 of the Illinois Power Agency Act [20 ILCS 3855];*
- 5) *It has fewer than 100 employees at initial time of registration;*
- 6) *It has been in operation in Illinois for not more than 10 consecutive years prior to beginning of the year of certification; ~~and~~*
- 7) *It has received not more than:*
- A) *\$10,000,000 in aggregate investments; ~~private equity investment in cash~~ or*
- B) *\$4,000,000 in investments that qualified for tax credits; ~~and~~*
- 8) *It agrees to maintain a minimum employment threshold in the State of Illinois for at least 3 years from the date of issuance of any tax credit*

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certificate issued to a claimant with respect to that business. [35 ILCS 5/220(e)]

- c) For purposes of subsection (b), the number of employees of a business shall be determined on a full-time equivalent basis.

(Source: Amended at 42 Ill. Reg. 16493, effective August 21, 2018)

Section 531.70 Tax Credit Certificate

- a) Per the requirements of the Act and upon satisfactory compliance with registration and reporting guidelines, the Department shall provide the claimant with a tax credit certificate. The certificate shall include the following:
- 1) The name and Social Security Number or FEIN of the claimant;
 - 2) The date on which the certificate is issued;
 - 3) The tax credit amount; and
 - 4) Any other information the Department determines to be appropriate.
- b) Except as provided in Section 531.40(d), information contained in certificates issued under the Act shall be subject to reporting under Section 531.80.

(Source: Amended at 42 Ill. Reg. 16493, effective August 21, 2018)

Section 531.80 Reporting and Tracking Procedures

- a) *On or before March 1 of each year, the Department shall report to the Governor and to the General Assembly on the tax credit certificates awarded under this Section for the prior calendar year.* [35 ILCS 5/220(h)]
- b) *This report must include, for each tax credit certificate awarded:*
- 1) *The name of the claimant and the amount of credit awarded or allocated to that claimant;*

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- 2) *The name and address of the qualified new business venture that received the investment giving rise to the credit and the county in which the qualified new business venture is located;*
 - 3) *The North American Industry Classification System (NAICS) code applicable to that qualified new business venture;*
 - 4) *The number of employees of the qualified new business venture, and the locations of their employment; and*
 - 5) *The date of approval by the Department of the applications for the tax credit certificate. [35 ILCS 5/220(h)(1)]*
- c) The report must also include:
- 1) *The total number of applicants and the total number of claimants, including the amount awarded to each claimant for tax credit certificates awarded under the Act in the prior calendar year;*
 - 2) *The total number of applications from businesses seeking registration under the Act, the total number of first-time qualified new business venture registrants, and the aggregate amount of investment upon for which tax credit certificates were issued in the prior calendar year; and*
 - 3) *The total amount of tax credit certificates sought by applicants, the aggregate amount of all tax credit certificates issued in the prior calendar year, and the aggregate amount of tax credit certificates issued as authorized under the Act for all calendar years. [35 ILCS 5/220(h)(2)]*

(Source: Amended at 42 Ill. Reg. 16493, effective August 21, 2018)

Section 531.90 Noncompliance

- a) *If the Department determines that a claimant who has received a credit under the Act or a qualified new business venture that was the recipient of an investment under the Act is not complying with the requirements or provisions of the Act, including any investment for which a claimant is allowed a credit under Section 220(b) of the Act and is held by the claimant for less than 3 years, or, if within that period of time, the qualified new business venture is moved from the State of*

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~~Illinois~~, the claimant shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the amount of the credit that the claimant received related to the investment. [35 ILCS 5/220(d)]

- b) A qualified new business venture may be found in noncompliance for:
- 1) Failing to maintain the minimum employment threshold for at least through the date 3 years from the issue date of the last tax credit certificate issued by the Department with respect to the business;
 - 2) Failing to provide the Department or the Department of Revenue with information and records necessary to verify compliance with the Act;
 - 3) Failing to submit the report required by Section 220(i) of the Act; or
 - 4) Otherwise not being in compliance with the Act.
- c) A claimant may be found in noncompliance if:
- 1) The claimant does not hold the investment for which the claimant is allowed an Angel Investment Credit Program credit for at least 3 years. This 3 year holding requirement does not apply if the investment is sold as part of a qualifying liquidity event or if the qualified new business venture ceases operations and the investment becomes worthless, as determined by the Department;
 - 2) In the case of an investment made in the form of a contingent equity investment, there is no conversion to equity within 3 years after the investment; or
 - 3) The claimant fails to provide the Department or the Department of Revenue with information and records necessary to verify compliance with the Act, including, but not limited to, copies of any investment agreement.

~~The Department, in consultation with the Department of Revenue, may adopt other rules and procedures necessary to implement the Act. [35 ILCS 5/220(f)]~~

(Source: Amended at 42 Ill. Reg. 16493, effective August 21, 2018)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1075.120	Repealed
1075.130	Amendment
1075.1310	Repealed
1075.1315	Repealed
1075.1320	Repealed
1075.1325	Repealed
- 4) Statutory Authority: Implementing and authorized by the Savings Bank Act [205 ILCS 205].
- 5) Effective Date of Rules: August 23, 2018
- 6) Does this rule contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Division of Banking and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 8102; May 18, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These amendments will implement SB 1254 (PA 100-232), for the purpose of making the Illinois savings bank regulatory assessment

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regime under the Savings Bank Act the same as that for Illinois State banks under the Illinois Banking Act. To this end, in the Savings Bank Act Rules, Sections 1075.120, 1075.1310, 1075.1315, and 1075.1320 are repealed; and Section 1075.130 is amended to be the functional equivalent of Illinois Banking Rules at Part 375. These changes eliminate hourly examine fees for savings banks and lower the overall savings bank quarterly supervisory fees to match those that are charged to a State bank.

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 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 38: FINANCIAL INSTITUTIONS

CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 1075

SAVINGS BANK ACT

SUBPART A: FILINGS

Section

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

SUBPART B: DEFINITIONS

Section

- 1075.200 Definitions

SUBPART C: REPORTS

Section

- 1075.300 Contracts
- 1075.310 Financial Reports

SUBPART D: OPERATIONS

Section

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

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1075.460	Bond of Officers, Organization Directors, Employees and Agents
1075.465	Indemnification of Officers, Organization Directors, Employees and Agents
1075.470	Deceptively Similar Names
1075.480	Manner of Display of Annual Meeting Notice
1075.490	Procedures for Exercise of Dissenters Rights

SUBPART E: INVESTMENTS

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

SUBPART F: SERVICE CORPORATION AND OPERATING SUBSIDIARIES

Section	
1075.600	Requirements
1075.610	Approval by the Director
1075.620	Investment Limitations
1075.630	Investments by Service Corporations
1075.640	Ownership of Capital Stock of Service Corporation
1075.650	Prohibited Transactions
1075.660	Disclosure to Service Corporation

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- 1075.670 Reporting Requirements
- 1075.680 Audit Requirements

SUBPART G: RELOCATIONS AND BRANCHING

Section

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

SUBPART H: CAPITAL NOTES AND DEBENTURES

Section

- 1075.800 Approval
- 1075.810 Conversion to Stock
- 1075.820 Priority of Claim

SUBPART I: ADMINISTRATIVE HEARING PROCEDURES

Section

- 1075.900 Applicability
- 1075.905 Definitions
- 1075.910 Early Neutral Evaluation
- 1075.915 Conference Adjudicative Hearing
- 1075.920 Filing
- 1075.925 Form of Documents
- 1075.930 Computation of Time
- 1075.935 Appearances
- 1075.940 Notice of Hearing
- 1075.945 Service of the Notice of Hearing

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1075.950	Motion and Answer
1075.955	Consolidation and Severance of Matters – Additional Parties
1075.960	Intervention
1075.965	Postponement or Continuance of Hearing
1075.970	Authority of Hearing Officer
1075.975	Bias or Disqualification of Hearing Officer
1075.980	Prehearing Conferences
1075.985	Discovery
1075.990	Subpoenas
1075.995	Conduct of the Hearing
1075.1000	Default
1075.1005	Evidence
1075.1010	Official Notice
1075.1015	Hostile Witnesses
1075.1020	Transcription of Proceedings
1075.1025	Briefs
1075.1030	Hearing Officer's Findings, Opinions and Recommendations
1075.1035	Order of the Director
1075.1040	Rehearings
1075.1045	Existing Statutory or Division Procedures and Practices
1075.1050	Costs of Hearing
1075.1055	Emergency Adjudication

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1075.1105	Definitions
1075.1110	Mutual Holding Company Reorganizations
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1075.1130	Charter (Repealed)
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- 1075.1220 Directors of a Mutual Holding Company
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- 1075.1320 Conditions ([Repealed](#))
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- 1075.1330 Conversion of Mutual Holding Companies

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- 1075.2410 Proxy Statement – Use of New Capital
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SUBPART P: HIGH RISK HOME LOANS

Section

1075.3000	Definitions (Repealed)
1075.3100	Ability to Repay (Repealed)
1075.3150	Verification of Ability to Pay Loan (Repealed)
1075.3200	Fraudulent or Deceptive Practices (Repealed)
1075.3225	Prepayment Penalty (Repealed)
1075.3250	Pre-paid Insurance Products and Warranties (Repealed)
1075.3300	Refinancing Prohibited in Certain Cases (Repealed)
1075.3325	Balloon Payments (Repealed)
1075.3350	Financing of Certain Points and Fees (Repealed)
1075.3400	Payments to Contractors (Repealed)
1075.3450	Negative Amortization (Repealed)
1075.3500	Negative Equity (Repealed)
1075.3550	Counseling Prior to Perfecting Foreclosure Proceedings (Repealed)
1075.3600	Mortgage Awareness Program (Repealed)
1075.3650	Report of Default and Foreclosure Rates on Conventional Loans (Repealed)
1075.3700	Director's Review and Analysis (Repealed)
1075.3750	Third Party Review of High Risk Home Loans (Repealed)

SUBPART Q: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATION

Section

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1075.4020	Purpose and Scope
1075.4030	Requests for Confidential Supervisory Information
1075.4040	Where to Submit a Request
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SUBPART R: PAYDAY LOANS

Section

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1075.5030	Issuance of Payday Loans by Savings Banks

1075.APPENDIX A Estimated Monthly Income and Expenses Worksheet

1075.APPENDIX B Mortgage Ratio Worksheet

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

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

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Reg. 16043, effective September 29, 2003, for a maximum of 150 days; emergency amendments suspended at 27 Ill. Reg. 18485, effective November 18, 2003; emergency suspension withdrawn at 28 Ill. Reg. 409, effective December 16, 2003; emergency repealed at 28 Ill. Reg. 427, effective December 16, 2003, in response to the objection and suspension of the Joint Committee on Administrative Rules; amended at 28 Ill. Reg. 807, effective December 29, 2003; amended at 28 Ill. Reg. 7285, effective May 7, 2004; amended at 30 Ill. Reg. 19068, effective December 1, 2006; amended at 41 Ill. Reg. 11336, effective August 28, 2017; amended at 41 Ill. Reg. 12459, effective October 6, 2017; amended at 42 Ill. Reg. 16507, effective August 23, 2018.

SUBPART A: FILINGS

Section 1075.120 Examination Fees (Repealed)

- a) ~~Time expended in the conduct of any examination of the affairs of any savings bank or service corporation pursuant to Section 9004 of the Act or applicable service corporation undertakings, respectively, shall be billed by the Director at a rate of \$70 per examiner hour. The fee shall be billed within 45 days following completion of the respective examination.~~
- b) ~~When out of state travel occurs in the conduct of any examination, the savings bank or service corporation will be billed for expenses incurred in the performance of duties. Billings for such expense shall not exceed amounts authorized pursuant to the travel regulations of the Department of Central Management Services/Governor's Travel Control Board (80 Ill. Adm. Code 2800). When examination procedures are performed at out of state locations, the examination fee of \$70 per hour plus travel, lodging and per diem shall be assessed. Additionally, travel time shall be billed at the examination rate of \$70 per hour.~~

(Source: Repealed at 42 Ill. Reg. 16507, effective August 23, 2018)

Section 1075.130 Regulatory Fees

- a) Each savings bank shall pay fees as set forth in Section 9002.5(a) of the Act.
- b) When service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of the fee under Section 9002.5(a) of the Act~~subsection (a)~~.

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- c) Each savings bank shall pay to the Secretary an electronic data processing fee equal to 16% of the savings bank's fee set forth in Section 9002.5(a) of the Act. The electronic data processing fee shall be calculated by the Secretary and billed to the savings bank for remittance with the fee set forth in Section 9002.5(a) of the Act. Each savings bank shall pay fees as set forth in Section 9002.5(c) of the Act.
- d) If a savings bank has received a Uniform Financial Institution Rating System (UFIRS) composite rating of 3, 4 or 5 on its last State or federal examination, the savings bank's quarterly fee shall be increased by 25% for a 3 rated savings bank and 50% for a 4 or 5 rated savings bank on the savings bank's subsequent quarter billing. This assessment shall stay in effect until the quarter following the savings bank's receipt of a UFIRS composite rating of 1 or 2 at the next State or federal examination.
- e) When a conversion or merger results in a savings bank, and no statement of condition for the resulting savings bank for the preceding quarter was submitted to the Secretary, fees shall be calculated in the same manner set forth in subsections (a), (b) and (c) based on the most recent period report of the condition submitted by the former depository institution to its primary regulator.
- f) When a savings bank ceases to be a savings bank, the former savings bank shall remain liable to the Secretary for accumulated fees under the Act or this Section up to and including the date, as determined by the Secretary, that savings bank ceases to be a savings bank. The former savings bank shall not be eligible for any credit or be liable for any assessment described in Section 9002.1(b) of the Act.
- g) Nothing in this Section is to be construed as limiting or being applicable to other fees that the Department may assess pursuant to the Act or other State laws or rules. The dates of billings shall not prejudice the validity of an invoice for any fees billed at a later date.
- e) ~~In the event the savings bank charter is converted, taken into possession under the Act, or surrendered during the year, the Director shall pro-rate the regulatory fee.~~

(Source: Amended at 42 Ill. Reg. 16507, effective August 23, 2018)

SUBPART J: SAVINGS BANK HOLDING COMPANIES

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1075.1310 Holding Company Supervisory Fees (Repealed)

- a) ~~Each savings bank holding company operating under the Act as of the close of each calendar year shall pay annually to the Director a fee of \$5.00 per million dollars of consolidated assets (excluding the assets of any Illinois State chartered savings bank or savings and loan association) of the savings bank holding company and its subsidiaries. The fee shall be based on the total assets of each savings bank holding company and each subsidiary as shown by its financial report filed with the Director for the reporting period ended December 31. The fees shall be for the calendar year then ended. Computations shall omit hundreds from the total assets and the fee shall be rounded to the nearest thousand dollar amount.~~
- b) ~~One fourth of the sum of the supervisory fee so determined shall be remitted at the time of each calendar quarter end. A calendar quarter end shall mean March 31, June 30, September 30, and December 31. The fees shall be for the respective current calendar year.~~
- c) ~~Supervisory fees shall be determined by the Director within 90 days following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any fees billed at a later date.~~
- d) ~~When service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the Director shall waive that portion of the fee attributed to the finance subsidiary.~~
- e) ~~In the event the State charter is converted or otherwise surrendered during the year, the Director shall determine the supervisory fee based on the total assets of the savings bank holding company as of the month end immediately preceding the cancellation of the State charter, except that the measurement date may be another date at the discretion of the Director in the event a savings bank holding company elects to liquidate. In determining whether to set another measurement date, the Director shall consider the following elements: whether the savings bank is undergoing a planned liquidation (where a savings bank elects to not continue operations) or the savings bank has transferred significant assets (more than .5% of the total assets at the previous measurement date).~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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(Source: Repealed at 42 Ill. Reg. 16507, effective August 23, 2018)

Section 1075.1315 Examination Fees (Repealed)

~~Time expended in the conduct of any examination of the affairs of any savings bank or service corporation pursuant to Section 9004 of the Act or applicable service corporation undertakings, respectively, shall be billed by the Director at a rate of \$55.00 per examiner hour. The fee shall be billed within 45 days following completion of the respective examination. In the situation where examination procedures are performed at out of state locations, the examination fee of \$55.00 per hour plus travel, lodging and per diem shall be assessed. Additionally, travel time shall be billed at the examination rate of \$55.00 per hour.~~

(Source: Repealed at 42 Ill. Reg. 16507, effective August 23, 2018)

Section 1075.1320 Conditions (Repealed)

- ~~a) No submission subject to a fee shall be considered complete without the stipulated fee.~~
- ~~b) The fee shall be non-refundable regardless of the subsequent action with respect to the submission.~~

(Source: Repealed at 42 Ill. Reg. 16507, effective August 23, 2018)

Section 1075.1325 Manner of Payment (Repealed)

~~Each invoice for a fee billed by the Director pursuant to Sections 1075.1305, 1075.1310 and 1075.1315 of this Part shall be due and payable upon receipt of the invoice by the savings bank or service corporation. Payment shall be by check, draft or money order made payable to the Department of Financial and Professional Regulation.~~

(Source: Repealed at 42 Ill. Reg. 16507, effective August 23, 2018)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Acupuncture Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1140
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1140.10	Amendment
1140.20	Amendment
1140.30	Amendment
1140.35	Amendment
1140.40	Amendment
1140.50	Amendment
1140.90	Amendment
1140.100	Amendment
1140.110	Amendment
- 4) Statutory Authority: Implementing the Acupuncture Practice Act [225 ILCS 2] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].
- 5) Effective Date of Rules: September 7, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. See Section 1140.100 b), the "Code of Ethics" of the National Certification Commission for Acupuncture and Oriental Medicine, 2025 M Street NW, Suite 800, Washington DC, 20036 (January 2016) is referenced with this new address being part of the amended language.
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 8683; June 1, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Additional language was added to the definition of "ACAOM" (Accreditation Commission for Acupuncture and Oriental Medicine) for clarification purposes. Also, the definitions of "Acupuncturist" and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

"Board" were reinstated after being deleted from the proposed version. There was also additional language added to the definition of "NCCAOM" (National Certification Commission for Acupuncture and Oriental Medicine) for clarification purposes. A typo in Section 1140.40(c)(2) was corrected-the proposed version had "660 hours" when it should have read, "450 hours". Also, the proposed language in Section 1140.100(c) has been removed entirely.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemakings: The sunset reauthorization of the Act (Public Act 100-375) made significant changes to the Act including adding herbal therapy to the scope of practice of Acupuncture, substantially adding to the definition of Acupuncture, updating the requirements for licensure in the State of Illinois for Acupuncture and general overall modernization of the Act. These adopted Rules implement these statutory changes.
- 16) Information and questions regarding these adopted rules shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 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 1140

ACUPUNCTURE PRACTICE ACT

Section

1140.10	Definitions
1140.20	Fees
1140.30	Application for Licensure
1140.35	Guest Instructor
1140.40	Acupuncture Programs
1140.50	Endorsement
1140.60	Renewals
1140.70	Inactive Status
1140.80	Restoration
1140.90	Continuing Education
1140.100	Unprofessional Conduct
1140.110	Granting Variances

AUTHORITY: Implementing the Acupuncture Practice Act [225 ILCS 2] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 23 Ill. Reg. 5705, effective April 30, 1999; amended at 25 Ill. Reg. 10893, effective August 13, 2001; amended at 26 Ill. Reg. 11938, effective July 18, 2002; amended at 27 Ill. Reg. 10103, effective June 20, 2003; amended at 30 Ill. Reg. 2512, effective February 8, 2006; amended at 34 Ill. Reg. 11759, effective July 28, 2010; amended at 41 Ill. Reg. 6340, effective June 2, 2017; amended at 42 Ill. Reg. 16524, effective September 7, 2018.

Section 1140.10 Definitions

"Act" means the Acupuncture Practice Act [225 ILCS 2].

"ACAOM" means the Accreditation Commission for Acupuncture and Oriental Medicine, [which is a U.S. Department of Education recognized body that accredits educational programs in the fields of acupuncture and oriental medicine.](#)

"Acupuncturist" means a person licensed under the Acupuncture Practice Act to

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practice acupuncture as defined in that Act.

"Board" means the Board of Acupuncture.

"CCAOM" means the Council of Colleges of Acupuncture and Oriental Medicine.

"CE" means continuing education.

"CNT Course" means a clean needle technique course as administered by CCAOM.

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

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

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

~~"Evaluation in Acupuncture" means the use of diagnostic and therapeutic techniques and theories rooted in East Asian medicine but including classical and modern methods taught in accredited programs of acupuncture and oriental medicine, for the purpose of determining a pattern discrimination and corresponding treatment plan.~~

"NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine, which certifies Diplomates of Acupuncture and Diplomates of Oriental Medicine.

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

(Source: Amended at 42 Ill. Reg. 16524, effective September 7, 2018)

Section 1140.20 Fees

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

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- a) Application Fees
- 1) The fee for application for a license as an acupuncturist is \$500.
 - 2) The fee for application as a continuing education sponsor is \$250.
- b) Renewal Fees
- 1) The fee for the renewal of an acupuncturist license shall be calculated at the rate of \$250 per year.
 - 2) The fee for the renewal of continuing education sponsor approval is \$250 for a 2-year license.
- c) General Fees
- 1) The fee for the restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees, not to exceed \$1,000.
 - 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 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.~~
 - 23) The fee for the certification of a license for any purpose is \$20.
 - 4) ~~The fee for a wall certificate showing licensure shall be the actual cost of producing such certificate.~~
 - 35) The fee for a roster of persons licensed as acupuncturists in this State shall be the actual cost of producing such a roster.

(Source: Amended at 42 Ill. Reg. 16524, effective September 7, 2018)

Section 1140.30 Application for Licensure

- a) An applicant for licensure as an acupuncturist shall file an application with the Division that includes the following:

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- 1) Acupuncture Program
 - A) An official transcript certifying that the applicant has graduated from a school accredited by ACAOM or a similar accrediting body approved by Division; or
 - B) An official transcript certifying that the applicant has graduated from a comprehensive educational program approved by the Division in accordance with Section 1140.40;
 - 2) For applications submitted on or before December 31, 2019, proof of passage of the ~~Proof of successful completion of the Acupuncture with Point Location examination, Biomedicine examination, and Foundations of Oriental Medicine examination of~~ NCCAOM examinations for Acupuncture with Point Location, Biomedicine, and Foundations of Oriental Medicine or a substantially equivalent examination approved by the Division;
 - 3) For applications submitted on or after January 1, 2020, proof of status as a Diplomate of Acupuncture (3-year program) or Diplomate of Oriental Medicine (4-year program) with NCCAOM, or a substantial equivalent approved by the Division;
 - ~~43)~~ Proof of successful completion of the CNT course administered by CCAOM; and
 - ~~54)~~ The required fee specified in Section 1140.20.
- b) All documents shall be submitted to the Division in English.
- c) If the applicant has ever been licensed as an acupuncturist in another state, he/she shall also submit a certification from the state in which the applicant was originally licensed and in which the applicant is currently licensed, stating:
- 1) The time during which the applicant was licensed as an acupuncturist in that jurisdiction, including the date of the original issuance of the license;
 - 2) A description of the examination in that jurisdiction; and

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- 3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- d) When the accuracy of any submitted documentation or experience is questioned by the Division or the Board 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 Board to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

(Source: Amended at 42 Ill. Reg. 16524, effective September 7, 2018)

Section 1140.35 Guest Instructor

- a) Any person not licensed in this State to practice acupuncture who is an invited guest of a professional acupuncture association, scientific acupuncture foundation, acupuncture training program or Division approved continuing education provider may provide professional education through lectures, clinics or demonstrations as set forth in Section 20.1 of the Act.
- b) Any individual providing services pursuant to this Section shall, upon written request of the Division, provide the following:
 - 1) One of the following:
 - A) Current certification as an active Diplomate of Acupuncture or an active Diplomate of Oriental Medicine from NCCAOM or similar body approved by the Department; or
 - B) Current certification of active licensure as an acupuncturist in another state or country.
 - 2) Certification from an acupuncture association, scientific acupuncture foundation, acupuncture training program or approved continuing

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education sponsor indicating:

- A) That the person has received an invitation or appointment to teach acupuncture technique in conjunction with lecture, clinics or demonstrations;
 - B) The nature of the educational services to be provided by the applicant; and
 - C) The term of the invitation or contract;
- 3) A copy of the applicant's current curriculum vitae.
- c) A guest instructor may engage in the application of acupuncture techniques in conjunction with the lecture, clinics or demonstration, but may not open an office, appoint a place to meet private patients, consult with private patients, or otherwise engage in the practice of acupuncture beyond what is required in conjunction with these lectures, clinics or demonstrations.
- d) If an individual providing services under the provisions of this Section desires to remain in the State and practice or teach his/her profession, he/she must apply for and receive a license to practice acupuncture. Nothing shall prohibit individuals providing services pursuant to this Section from applying for and receiving a license to practice acupuncture in this State while providing services as allowed by this Section.

(Source: Amended at 42 Ill. Reg. 16524, effective September 7, 2018)

Section 1140.40 Acupuncture Programs

The Division shall, ~~upon the recommendation of the Board of Acupuncture,~~ approve an applicant's acupuncture program if it meets the ~~following~~ minimum criteria of subsection (a) and of either subsection (b) or (c).÷

- a) The school from which the applicant has graduated:
 - 1) Is legally recognized and authorized by the jurisdiction in which it is located to confer an acupuncture degree; ~~and~~

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- 2) Has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas of teaching from professional colleges or institutions; and
 - 3) Maintains permanent student records that summarize the credentials for admission, attendance and grades and other records of performance.
- b) ~~For a 3-year program, the~~Has a core curriculum ~~that~~ includes ~~a minimum of at least 3 academic years (a minimum of 1905 hours or its equivalent.)~~ within no less than 27 calendar months. This must be composed of at least:
- 1) 795 hours (or its equivalent) in theory and treatment techniques in acupuncture and related studies.
 - A) Topics shall include, but not be limited to, the following:
 - i) History of Acupuncture;
 - ii) Basic Theory. Topics shall include, but not be limited to, basic Yin-Yang theory, 8 principles and 5 elements; Zang (viscera) organs and Fu (bowels) organs and extraordinary organs; theory and function of channels (meridians) and collaterals; Qi, blood and body fluids; Qi tonification (supplementation) and sedation (reducing); etiology (the causes of diseases) such as 6 exogenous, 7 emotional factors and non-internal or non-external reasons; pathology;
 - iii) Point Location and Channel (Meridian) Theory. Topics shall include, but not be limited to, nomenclature and distribution of the 14 channels on the body surface – 12 regular channels, Ren (conception) channel and Du (governing) channel; classification of points; points study should include the method of locating the points, anatomic structures, classification of points, functions and indications, and contraindications; knowledge of the specific point categories, such as the Five Shu points, Yuan (source) points, Luo (connecting) points, Xi (cleft) points,

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Back-Shu points, Front-Mu points, Crossing points; knowledge of the 8 extraordinary channels and their corresponding points;

- iv) Acupuncture Treatment. Topics shall include, but not be limited to, the various evaluation methods utilized in acupuncture practice, differentiation of syndromes according to 8 principles, Qi and blood, Zang-Fu organs and theory of meridians and collaterals; case review, based on history of the patient and charting; the four-examination methods; measuring and recording vital signs and symptoms, to make treatment plans and future prognosis; contraindications of treatment; indications of potential risk to the patient; the need to modify standard therapeutic approach (e.g., infants and children, pregnancy) and apparently benign presentations that may have a more serious cause (hypertension, headaches);
- v) Treatment Techniques. Topics shall include, but not be limited to, needle insertion depth, duration, manipulation and withdrawal; the appearance of Qi; Moxa application, direct and indirect, etc.; other techniques (e.g., bleeding, moxibustion, cupping, Gua Sha, 7 star); tonification and sedation techniques; knowledge relating to the treatment of acute and chronic conditions, first aid, analgesia, anesthesia, and electrical stimulation; safety issues; Oriental bodywork therapy (e.g., Tui Na, Shiatsu, Amma, acupressure, etc.); contraindication for certain conditions; and
- vi) Ethics and Practice Management. Topics shall include, but not be limited to, confidentiality; informed consent; HIPAA guidelines; understanding the scope of practice; recordkeeping: legal requirements, release of data; ethical and legal aspects of referring patients to another practitioner; professional conduct and appropriate interpersonal behavior; laws and regulations governing the practice of acupuncture; recognition and clarification of patient expectations; general liability insurance; legal

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requirements; professional liability insurance: risk management and quality assurance; building and managing a practice, including ethical and legal aspects of third party reimbursement; professional development.

- B) No more than 90 hours may count towards history and ethics and practice management.
- 2) 660 hours (or its equivalent) in clinical training.
- A) The program must assure that each student participates in a minimum of 510 hours in the supervised care of patients using acupuncture. This portion of the clinical training, conducted under the supervision of program-approved supervisors, must consist of at least 250 student-performed treatments where students conduct patient interviews, perform diagnosis and treatment planning, perform appropriate acupuncture treatments, and follow-up on patients' responses to treatment.
 - B) The supervised clinical practice must be an internship that provides the student training in all phases of patient care and must be conducted in a teaching clinic operated by the institution or in a clinical facility with a formal affiliation with the institution where the institution exercises academic oversight substantially equivalent to the academic oversight exercised for teaching clinics operated by the institution, where:
 - i) Clinical instructors' qualifications meet school requirements for clinical instruction;
 - ii) Regular, systematic evaluation of the clinical experience takes place; and
 - iii) Clinical training supervision procedures are substantially equivalent to those within the teaching clinic operated by the institution. Student interns must receive training from a variety of clinical faculty in order to ensure that interns are exposed to different practice styles and instructional methods.

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- C) The program must assure that each student acquires a minimum of 150 hours in observation.
- 3) 450 hours (or its equivalent) in biomedical clinical sciences.
- A) Biomedical Clinical Sciences. Topics shall include, but not be limited to, basic science courses; biomedical and clinical concepts and terms; human anatomy and physiology; pathology and the biomedical disease model; pharmacology; the nature of the biomedical clinical process, including history taking, diagnosis, treatment and follow-up; the clinical relevance of laboratory and diagnostic tests and procedures, as well as biomedical physical examination findings; the basis and need for referral and/or consultation; the range of biomedical referral resources and the modalities they employ; and
 - B) Clean Needle Technique. Topics shall include infectious diseases, sterilization procedures, needle handling and disposal, and other issues relevant to bloodborne and surface pathogens.
- c) For a 4-year program, the core curriculum includes a minimum of 2625 hours, or its equivalent, within no less than 36 calendar months. This must be composed of at least:
- 1) 795 hours (or its equivalent) in theory and treatment techniques in acupuncture and related studies.
 - A) Topics shall include, but not be limited to, the following:
 - i) History of Acupuncture;
 - ii) Basic Theory. Topics shall include, but not be limited to, basic Yin-Yang theory, 8 principles and 5 elements; Zang (viscera) organs and Fu (bowels) organs and extraordinary organs; theory and function of channels (meridians) and collaterals; Qi, blood and body fluids; Qi tonification (supplementation) and sedation (reducing), etiology (the causes of diseases) such as 6 exogenous, 7 emotional

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factors and non-internal or non-external reasons; pathology;

- iii) Point Location and Channel (Meridian) Theory. Topics shall include, but not be limited to, nomenclature and distribution of the 14 channels on the body surface – 12 regular channels, Ren (conception) channel and Du (governing) channel; classification of points; points study should include the method of locating the points, anatomic structures, classification of points, functions and indications, and contraindications; knowledge of the specific point categories, such as the Five Shu points, Yuan (source) points, Luo (connecting) points, Xi (cleft) points, Back-Shu points, Front-Mu points, Crossing points; knowledge of the 8 extraordinary channels and their corresponding points;
- iv) Acupuncture Treatment. Topics shall include, but not be limited to, the various evaluation methods utilized in acupuncture practice, differentiation of syndromes according to 8 principles, Qi and blood, Zang-Fu organs and theory of meridians and collaterals; case review, based on history of the patient and charting; the four-examination methods; measuring and recording vital signs and symptoms, to make treatment plans and future prognosis; contraindications of treatment; indications of potential risk to the patient; the need to modify standard therapeutic approach (e.g., infants and children, pregnancy) and apparently benign presentations that may have a more serious cause (hypertension, headaches);
- v) Treatment Techniques. Topics shall include, but not be limited to, needle insertion depth, duration, manipulation and withdrawal; the appearance of Qi; Moxa application, direct and indirect, etc.; other techniques (e.g., bleeding, moxibustion, cupping, Gua Sha, 7 star); tonification and sedation techniques; knowledge relating to the treatment of acute and chronic conditions, first aid, analgesia, anesthesia, and electrical stimulation; safety issues; Oriental bodywork therapy (e.g., Tui Na, Shiatsu, Amma,

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acupressure, etc.); contraindication for certain conditions; and

- vi) Ethics and Practice Management. Topics shall include, but not be limited to, confidentiality; informed consent; HIPAA guidelines; understanding the scope of practice; recordkeeping; legal requirements, release of data; ethical and legal aspects of referring patients to another practitioner; professional conduct and appropriate interpersonal behavior; laws and regulations governing the practice of acupuncture; recognition and clarification of patient expectations; general liability insurance; legal requirements; professional liability insurance; risk management and quality assurance; building and managing a practice, including ethical and legal aspects of third party reimbursement; professional development.
- B) No more than 90 hours may count towards history and ethics and practice management.
- 2) 450 hours (or its equivalent) in didactic Oriental herbal studies.
 - A) Topics shall include, but not be limited to:
 - i) Introduction to Oriental herbal medicine, development of herbal medical systems throughout the Orient, history of the development of Oriental herbal medicine in the USA, and legal and ethical considerations of herbal medicine;
 - ii) Basic Herbal Medicine Theory. Topics shall include, but not be limited to, plant-part terminology and significance to usage; herbal properties (e.g., concepts of herbal categories, taste, temperature, entering meridians); methods of preparation (i.e., dried, honey baked); methods of delivery (e.g., decoction, topical, timing); laws of combining, including common contraindications, prohibitions, precautions; methods of treatment (i.e., induce sweat, clearing, harmonize);

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- iii) Oriental Diagnostic and Treatment Paradigms. Topics shall include, but not be limited to, herbal medicine within the context of Shan Han/6 stages; Wen Bing/4 levels; Zang Fu; Chinese Internal and External Medicine;
- iv) Herbal Strategies. Topics shall include, but are not limited to, methods and systems for planning, carrying out and evaluating a treatment; differentiation and modifications of herbal formula for various patterns of disharmony according to Chinese medical principles; Chinese herbal medicine protocols applied to patients with a biomedical diagnosis;
- v) Materia Medica. Includes instruction in a minimum of 300 different herbs with topics including, but not limited to, functions and meaning; visual identification, including differing methods of cutting; temperature, taste and entering meridians; taxonomy and nomenclature; introduction to Chinese names of herbs; functions and actions with a focus on classical and new developments; specific contraindications for each herb; applications of herbal dosages; current developments in individual herb research; endangered species and substitutions for them;
- vi) Herbal Formulas. Includes instruction in a minimum of 150 formulas with topics including, but not limited to, traditional formula categories, functions and meanings; meanings of the traditional Chinese formula names; functions and actions with a focus on classical and new developments; specific contraindications for each formula; current development in formula research; composition and proportion of individual herbs in each formula; major modifications of formulations; patient education regarding administration, potential side effects, preparation and storage of formulas; prepared herbal formulations focusing on modifications and format of delivery;
- vii) Clinical Internship and Herbal Dispensary. Topics include, but are not limited to, clinical internship in which students

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interview, diagnose, and write appropriate herbal formulae moving from complete supervision to independent formula development; standards of cleanliness in herbal dispensary; storage of herbs (both raw and prepared formulas), covering issues of spoilage and bugs; practice in the filling of herbal formulas in an herbal dispensary setting; Western science for herbal medicine; botany, non-botanical and horticulture (e.g., changes in the characteristics of herbs due to environmental factors) as they pertain to herbal medicine; general principles of pharmacognosy; biochemical components of herbs and natural substances; considerations of pharmaceutical interactions with reference to current texts.

- 3) 870 hours (or its equivalent) in an integrated acupuncture and herbal clinical training.
- A) The program must assure that each student participates in a minimum of 700 hours in the supervised care of patients using acupuncture. This portion of the clinical training, conducted under the supervision of program-approved supervisors, must consist of at least 350 student-performed treatments in which students conduct patient interviews, perform diagnosis and treatment planning, perform appropriate acupuncture treatments, and follow up on patients' responses to treatment.
- B) The supervised clinical practice must be an internship that provides the student training in all phases of patient care and must be conducted in a teaching clinic operated by the institution or in a clinical facility with a formal affiliation with the institution under which the institution exercises academic oversight substantially equivalent to the academic oversight exercised for teaching clinics operated by the institution when:
- i) Clinical instructors' qualifications meet school requirements for clinical instruction;
- ii) Regular, systematic evaluation of the clinical experience takes place; and

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another state or territory of the United States who wishes to be licensed in Illinois as an acupuncturist shall file an application with the Division, together with:

- 1) One of the following:
 - A) For applicants licensed in another state on or before December 31, 2001, proof of one of the following:
 - i) Successful completion of the NCCAOM comprehensive acupuncture examination or a substantially equivalent examination approved by the Division; or
 - ii) Current certification as an active Diplomate of Acupuncture or an active Diplomate of Oriental Medicine from NCCAOM; ~~or~~
 - B) For applicants licensed in another state after December 31, 2001, proof of:
 - i) Either:
 - An official transcript certifying that the applicant has graduated from a school accredited by the ACAOM or a similar accrediting body approved by the Division; or
 - An official transcript certifying that the applicant has graduated from a comprehensive educational program approved by the Division in accordance with Section 1140.40; and
 - ii) Proof of successful completion of the NCCAOM comprehensive acupuncture examination or a substantially equivalent examination approved by the Division; or
 - C) For applicants licensed on or after January 1, 2020 in another state, current certification as an active Diplomate of Acupuncture or Diplomate of Oriental Medicine with NCCAOM or substantially equivalent credential as approved by the Division;

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- 2) Proof of successful completion of the CNT course as administered by CCAOM;
 - 3) Certification from the state of original licensure and the state in which the applicant is currently licensed and practicing as an acupuncturist, if other than original, stating the applicant's license number, the time during which the applicant was licensed in that state, a description of the licensure examination in that jurisdiction, and whether the file on the applicant contains any disciplinary actions taken or pending; and
 - 4) The required fee specified in Section 1140.20.
- b) The Division shall examine each endorsement application to determine whether the requirements and examination in the jurisdiction at the date of licensing were substantially equivalent to the requirements and examination of the Act or whether the applicant possesses individual qualifications that were substantially equivalent to the requirements of the Act.
 - c) The Division shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the application.

(Source: Amended at 42 Ill. Reg. 16524, effective September 7, 2018)

Section 1140.90 Continuing Education

- a) Continuing Education Hours Requirements
 - 1) Every licensee who applies for renewal or restoration of an acupuncturist license shall complete 30 hours of CE relevant to the professional skills and scientific knowledge of the licensee in the practice of acupuncture.
 - 2) A pre-renewal period is the 24 months preceding June 30 of each odd-numbered year.
 - 3) One CE hour shall equal one 60-minute clock hour with not less than 50 minutes of instructional content within the hour. 30 to 49 minutes of instructional content would be reported be as 0.5 CE hour and 50 to 60 minutes of instructional content would be reported as 1.0 CE hour.

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- 4) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois acupuncturist license.
 - 5) Acupuncturists licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.
 - 6) CE credit hours used to satisfy the CE requirements of another state may be applied to fulfill the CE requirements of the State of Illinois if they meet the requirements for CE in Illinois.
- b) Approved Continuing Education
- 1) Except for those activities listed in subsections (b)(3), (4), (5) and (6), all CE hours must be earned through sponsors approved under subsection (c) and must comply with program requirements set forth in subsection (c).
 - 2) A maximum of 23 hours of CE credit may be earned in a pre-renewal period for completion of self-study (including online, correspondence, audio or video) courses that are provided by a sponsor approved by the Division pursuant to subsection (c). Each self-study course shall include an examination that the licensee must pass to obtain credit.
 - 3) A maximum of 30 hours of CE credit may be earned in a pre-renewal period for successful completion of post-graduate courses related to the clinical aspects of acupuncture at a school of acupuncture accredited by ACAOM or a similar accrediting body approved by the Division. CE credit will be allotted at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
 - 4) A maximum of 15 hours of CE credit may be earned in a pre-renewal period for verified teaching of coursework that is part of the curriculum of an acupuncture program accredited by ACAOM or a similar accrediting body approved by the Division and/or as an instructor of CE programs provided by a sponsor approved by the Division pursuant to subsection (c). Credit will be applied at the rate of 1.5 hours for each hour of teaching or presenting the course or program material and only for the first presentation of the course or program (i.e., credit shall not be allowed for repetitious presentations of the same program).

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- 5) A maximum of 5 hours of CE credit may be earned in a pre-renewal period for completion of coursework that is part of the curriculum of an accredited college or university and/or for completion of CE programs in Illinois approved by the Division but not approved under this Part. The course or program material must be relevant to the professional skills and scientific knowledge of the licensee in the practice of acupuncture.
 - 6) A maximum of 5 hours of CE credit may be earned in a pre-renewal period for authoring papers published in refereed professional journals or books.
- c) Approved CE Sponsors and Programs
- 1) Approved sponsor, as used in this Section, shall mean:
 - A) American Association of Acupuncture and Oriental Medicine or its affiliates;
 - B) Asian American Acupuncture Association, or its affiliates;
 - C) Illinois Association of Acupuncture and Oriental Medicine, or its affiliates;
 - D) Korean American Acupuncture Association of Illinois, or its affiliates;
 - E) Chicago Korean American Acupuncture Association, or its affiliates;
 - F) The National Certification Commission for Acupuncture and Oriental Medicine and individuals and organizations approved by NCCAOM to provide acupuncture CE programs; or;
 - G) American Society of Acupuncturists, or its affiliates; ~~or~~
 - H) [American Academy of Medical Acupuncture](#); or
 - D) Any other person, firm, association, corporation or group that has been approved and authorized by the Division pursuant to

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subsection (c)(2) upon the recommendation of the Board to coordinate and present CE programs.

- 2) Entities seeking registration as a CE sponsor pursuant to subsection (c)(1)(~~H~~) shall file a CE sponsor application, a sample CE program in accordance with subsection (c)(3), a sample evaluation in accordance with subsection (c)(4), and a sample certificate of attendance in accordance with subsection (c)(5) along with the fee specified in Section 1140.20. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The applicant shall also 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;
 - 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)(5);
 - C) That, upon request by the Division, the sponsor will submit evidence 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:
 - A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of acupuncture that includes direct and indirect patient care, acupuncture treatment, treatment techniques, point location and theory, herbal therapy or preparation, and ethics, ~~but does not include herbal therapy or preparation~~;
 - B) Foster the enhancement of general or specialized acupuncture practice and values;
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;

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- D) Specify the course objectives, course content and teaching methods to be used; and
 - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for acupuncturist license renewal.
- 4) Each CE program shall provide a mechanism for participants to evaluate the program and the instructor.
 - 5) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance to verify completion of the program. The sponsor's certificate of attendance shall contain:
 - A) The sponsor's name, address and Illinois CE sponsor registration number;
 - B) The participant's name and Illinois acupuncturist license number;
 - C) The title of the program and a brief description of the subject matter;
 - D) The number of hours attended by the participant;
 - E) The date and location of the program; and
 - F) The signature of the sponsor.
 - 6) The sponsor shall be responsible for assuring that each participant receives CE credit only for time spent attending the program.
 - 7) The sponsor shall maintain attendance records for not less than 5 years.
 - 8) All programs given by approved sponsors shall be open to all licensed acupuncturists and not be limited to members of a single organization or group.

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- 9) An approved sponsor may subcontract with individuals and organizations to provide programs in accordance with the criteria set forth in this Section.
 - 10) To maintain approval as a registered CE sponsor, each sponsor shall submit a renewal application in accordance with Section 1140.60, along with the renewal fee specified in Section 1140.20. Upon the ~~Division's~~ ~~Department's~~ request, the sponsor shall provide a list of each program provided by the sponsor in the pre-renewal period, including the name of the program, a brief description of the subject matter, the number of credit hours available, the program date, and the location of the program.
 - 11) Upon the failure of a sponsor to comply with any of the foregoing requirements, 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 the 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 set forth in subsections (a) and (b).
 - 2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence may 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, a renewal applicant shall be notified in writing, which shall include electronic communication. 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].

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- e) Continuing Education Earned in Other Jurisdictions
- 1) If a licensee will be earning or has earned CE hours in another state or territory for which the licensee will be claiming credit toward full compliance in Illinois and the sponsor is not approved by the Division pursuant to subsection (c), the applicant shall submit an out-of-state CE approval form, a description and schedule of the CE program, a description of the instructor's qualifications, proof of registration or attendance, and a \$25 processing fee, prior to participation in the program or 90 days prior to the expiration of his or her acupuncturist license. The Board or division shall review and recommend approval or disapproval of the program using the criteria set forth in this Section.
 - 2) If a licensee fails to submit an out of state CE approval form within the time frame specified in subsection (e)(1), late approval may be obtained by submitting an out-of-state CE approval form, a description and schedule of the CE program, a description of the ~~instructor's~~ ~~instructor's~~ qualifications, and proof of attendance, along with the required fee. The required fee shall be a \$25 processing fee plus a late fee of \$10 for each CE hour for which late approval is requested. The late fee shall not exceed \$150. The Board or Division shall review and recommend approval or disapproval of the program using the criteria set forth in this Section.
- f) 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 1140.20, a statement setting forth the facts concerning non-compliance, and a request for waiver of all or part of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the expiration date of the license. 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 for granting a waiver, the Division shall waive enforcement of the CE requirements for the license renewal for which the applicant has applied.

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- 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 pre-renewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of the pre-renewal period;
 - B) An incapacitating illness during a substantial part of the pre-renewal period, documented by a statement from a currently licensed physician;
 - C) A physical inability to travel to the sites of approved programs during a substantial part of the pre-renewal period, 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 42 Ill. Reg. 16524, effective September 7, 2018)

Section 1140.100 Unprofessional Conduct

- a) Pursuant to Section 110 of the Act, unethical, unauthorized or unprofessional conduct in the practice of acupuncture shall include, but not be limited to:
 - 1) Procuring, attempting to procure or renewing a license by bribery or by fraudulent misrepresentation;
 - 2) Willfully making or filing a false report or record, willfully failing to file a report or record required by State or federal law, or willfully impeding or obstructing such filing or inducing another person to do so;
 - 3) Circulating untruthful, fraudulent, deceptive or misleading advertising;
 - 4) Willfully failing to report any violation of the Act or this Part;

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- 5) Willfully or repeatedly violating a lawful order of the Board or the Division previously entered in a disciplinary hearing;
 - 6) Accepting and performing professional responsibilities that the licensee knows, or has reason to know, he/she is not competent to perform;
 - 7) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience or licensure to perform them;
 - 8) Gross or repeated malpractice or the failure to deliver acupuncture services with that level of care, skill and treatment that is recognized by a reasonably prudent acupuncturist with similar professional training as being acceptable under similar conditions and circumstances;
 - 9) Dividing with anyone, other than physicians with whom the licensee receives referrals or another acupuncturist with whom the licensee works, any fee, commission, rebate or other form of compensation for any professional services not actually and personally rendered. Nothing contained in this subsection prohibits persons holding valid and current licenses under this Act from practicing in a partnership, limited liability partnership, limited liability company or a corporation under the Professional Corporation Act or from pooling, sharing, dividing or apportioning the fees and monies received by them or by the partnership or corporation;
 - 10) Engaging in immoral conduct in the commission of any act related to the licensee's practice;
 - 11) Engaging in sexual abuse, sexual misconduct, or sexual exploitation.
- b) The Division hereby incorporates by reference the "Code of Ethics" of the National Certification Commission for Acupuncture and Oriental Medicine, [2025 M Street NW, Suite 800, Washington DC 20036 \(January 2016\)](#)~~76 South Laura Street, Suite 1290, Jacksonville FL 33202 (October 2008)~~, with no later amendments or editions.

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(Source: Amended at 42 Ill. Reg. 16524, effective September 7, 2018)

Section 1140.110 Granting Variances

a) The Director may grant variances from this Part in individual cases when he or she finds that:

- a1) The provision from which the variance is granted is not statutorily mandated;
- b2) No party will be injured by the granting of the variance; and
- c3) The rule from which the variance is granted would, in ~~that~~the particular case, be unreasonable or unnecessarily burdensome.
- b) ~~The Director shall notify the Board of the granting of the variance, and the reasons for granting the variance, at the next meeting of the Board.~~

(Source: Amended at 42 Ill. Reg. 16524, effective September 7, 2018)

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- 1) Heading of the Part: Illinois Safety Responsibility Law
- 2) Code Citation: 92 Ill. Adm. Code 1070
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1070.20	Amendment
1070.30	Amendment
1070.75	New Section
1070.Appendix A	New Section
- 4) Statutory Authority: 625 ILCS 5/7-309 and 7-312
- 5) Effective Date of Rules: August 23, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Department's Division of Driver's Services, and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 6601; April 13, 2018
- 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? None were made.
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking corrects statutory citations to a statute that was repealed and sets forth the process by which SOS shall be notified when a court has entered an order allowing an unsatisfied judgment to be paid via an installment agreement, when such an agreement has been vacated, when an unsatisfied judgment has been vacated or when a judgment has been satisfied.

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

Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462

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

OFFICE OF THE SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1070
ILLINOIS SAFETY RESPONSIBILITY LAW

Section	
1070.10	Forms of Security
1070.20	Future Proof
1070.30	Installment Agreements
1070.40	Disposition of Security
1070.50	Failure to Satisfy Judgment
1070.60	Release From Liability
1070.70	Incomplete Unsatisfied Judgment
1070.75	Post-Unsatisfied Judgment Action
1070.80	Driver's License Restriction for Exclusive Operation of Commercial Vehicles
1070.90	Dormant and Dead Judgments
1070.100	Bankruptcy
1070.110	Illinois Safety and Family Financial Responsibility Law
1070.120	Nonresidents and Former Residents; When Proof Not Required

[1070.Appendix A](#) [Post-Unsatisfied Judgment Action Form](#)

AUTHORITY: Implementing and authorized by the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/Ch. 7].

SOURCE: Filed and effective December 17, 1971; codified at 6 Ill. Reg. 12674; repealed at 7 Ill. Reg. 13678, effective October 14, 1983; New Part adopted at 11 Ill. Reg. 20215, effective November 30, 1987; amended at 14 Ill. Reg. 6859, effective April 24, 1990; amended at 14 Ill. Reg. 10107, effective June 12, 1990; amended at 15 Ill. Reg. 15083, effective October 8, 1991; amended at 16 Ill. Reg. 2172, effective January 24, 1992; amended at 17 Ill. Reg. 8517, effective May 27, 1993; amended at 18 Ill. Reg. 10909, effective June 28, 1994; amended at 20 Ill. Reg. 398, effective December 20, 1995; amended at 20 Ill. Reg. 7956, effective May 30, 1996; amended at 24 Ill. Reg. 1672, effective January 14, 2000; emergency amendment at 27 Ill. Reg. 14361, effective August 20, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18458, effective November 24, 2003; emergency amendment at 30 Ill. Reg. 7974, effective April 14, 2006, for a maximum of 150 days; emergency expired September 11, 2006; amended at 30 Ill. Reg. 6392, effective April 12, 2007; amended at 32 Ill. Reg. 16507, effective September 25, 2008; amended at 32 Ill. Reg. 19163, effective November 25, 2008; amended at 35 Ill. Reg.

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1790, effective January 13, 2011; amended at 36 Ill. Reg. 5575, effective March 26, 2012; amended at 37 Ill. Reg. 3319, effective February 28, 2013; amended at 38 Ill. Reg. 6119, effective February 27, 2014; amended at 38 Ill. Reg. 20054, effective October 1, 2014; amended at 42 Ill. Reg. 16552, effective August 23, 2018.

Section 1070.20 Future Proof

- a) For purposes of this Section, the following definitions shall apply:

"Certificate of Insurance" – certificate filed with the Secretary of State's Office as proof that the person has purchased financial responsibility insurance as outlined in IVC Section 7-315.

"Department" – Department of Driver Services of the Office of the Secretary of State.

"Financial Responsibility Insurance" – insurance used to establish proof of financial responsibility as established in IVC Sections 7-315 and 7-316.

"Illinois Insurance Guarantee Fund" – section of the Illinois Department of Insurance which deals with disposition of assets following bankruptcy.

"Illinois Vehicle Code" or "Vehicle Code" or "IVC" – 625 ILCS 5.

"Law" – the Illinois Safety and Family Financial Responsibility Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 7].

"Lien" – claim on property of another as security for payment of a just debt.

"Motor Vehicle Liability Policy" – "owner's policy" or an "operator's policy" of liability insurance that is certified pursuant to IVC Section 7-315 or 7-316, comports with IVC Section [1-164.57-302](#) and complies with the requirements of IVC Section 7-317(b), (c), (d) and (f).

"Proof of Financial Responsibility for the Future" – ability to respond in damages for any liability resulting from the ownership, maintenance, use or operation of a motor vehicle as provided in IVC Section [1-164.57-302](#).

"Real Estate Bond" – proof filed pursuant to IVC Section 7-320.

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"Secretary of State" – Secretary of State of Illinois.

"Stock" – proportionate share in ownership of corporation held by individual and that is usually represented by a stock certificate.

"Surety" – a person who makes himself/herself liable for another's debts or defaults of obligations.

- b) When a person purchases insurance to file proof of financial responsibility for the future, the insurance company will file a certificate of insurance with the Department. The certificate filed shall be either the AAMVA (American Association of Motor Vehicle Administrators) Uniform Financial Responsibility form, containing the insured's name and address, license number, and birthdate; current policy number and effective date of the insurance policy and the name of the insurance company with the signature of its authorized representative, or other certificate of insurance proof conforming to the requirements of IVC Section 7-315 or 7-316, which is endorsed and certifies policy limits as specified in IVC Section [1-164.57-302](#). If an owner's rather than operator's policy, it must include the model year, trade name and identification number of the vehicle. The owner's policy must also conform with the amounts specified in IVC Section [1-164.57-302](#).
- c) If a person purchases a certificate of insurance to satisfy his/her requirement to file future proof of financial responsibility and the insurance company fails and is no longer in business, and ceases operations by order of a court, and the Department is notified by the Illinois Insurance Guarantee Fund of the non-operation of the insurance company, the person shall have 30 days after notification by the Department to file a new certificate of insurance or satisfy his/her future proof requirement by cash or one of the other alternate methods provided in IVC Section 7-314. If a suspension has been entered even though the person has filed future proof of financial responsibility within the 30 day time period, the suspension shall be removed.
- d) If a person required to furnish proof of financial responsibility for the future chooses to file a bond pursuant to IVC Section 7-320, and the bond is executed by the person giving the proof and two individual sureties, the following conditions must be met:

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- 1) Each surety must own real estate within the State of Illinois;
 - 2) Each surety must have equity in that real estate in the amount of the bond;
 - 3) The bond must be endorsed by the clerk of the court and approved by a judge as provided in IVC Section 7-320.
- e) If any evidence of proof of financial responsibility for the future filed under the Law falls below the amount required as provided in IVC Section [1-164.57-302](#), additional evidence shall be required. Cash and securities are deposited with the Illinois State Treasurer and the Treasurer monitors the securities and informs the Department if its value falls below the amount required. A certificate of insurance or bonds, real estate bonds that are without liens, stocks and cash shall be accepted as evidence to establish the additional required proof of financial responsibility for the future. The additional security shall be sent to the Safety and Financial Responsibility Section, Department of Driver Services, 2701 South Dirksen Parkway, Springfield, Illinois 62723.
- f) Whenever any evidence of proof of ability to respond in damages required to be filed pursuant to the provisions of IVC Section 7-301 no longer fulfills the purpose for which required, the Department shall require other evidence of ability to respond in damages, including but not limited to an endorsed certificate of insurance meeting the requirements of IVC Section [1-164.57-302](#), bonds, unencumbered real estate bonds, stocks or cash. The person required to post proof shall have 30 days after notification by the Department to post or file additional proof. If the person fails to post proof within 30 days, the Secretary of State shall suspend the driver's license, registration certificate, license plates and registration sticker pending receipt of such proof.
- g) Proof of Financial Responsibility as required in the Law shall be made by filing with the Secretary of State a written or electronic certificate of insurance. Notices of cancellation or termination of the certified policy of insurance proof as required in IVC Sections 7-315 and 7-318 must be submitted in writing or electronically. All written or electronic certificates of insurance proof and cancellation or termination as required in the Law must be submitted in a manner satisfactory to the Secretary of State.
- h) A notice of cancellation or termination of the certified policy of insurance for nonpayment of premiums shall only be sent to the Secretary of State after the

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insured has failed to discharge, on or after the due date, any of his or her obligations in connection with the payment of premiums, or installments that are payable directly to the insurer, its agent or a party that has financed the premium. In the event an insurance company violates the provisions of this subsection, that violation shall be reported to the Illinois Department of Financial and Professional Regulation-Division of Insurance.

- i) Proof of Financial Responsibility as required in IVC Section 7-315, and notices of cancellation or termination of the certified policy of insurance, as required in IVC Section 7-318, when submitted by paper shall be 8½" X 11" in size. The Department shall return certificates submitted incorrectly to the insurance company. Certificates will not be processed until submitted on the correct size of paper.

(Source: Amended at 42 Ill. Reg. 16552, effective August 23, 2018)

Section 1070.30 Installment Agreements

- a) An installment agreement shall not be accepted by the Department for purposes of [IVC Section 7-208\(b\) of the Illinois Safety and Family Financial Responsibility Law \[625 ILCS 5/7-208\(b\)\]](#) unless the following conditions are met:
 - 1) The [installment agreement includes information on the agreement is complete. It must include](#) the identity of the parties, date of the accident, location of the accident, how often the payments will be made, the total amount of payments, and to whom the payment will be made.
 - 2) The [installment](#) agreement is notarized or witnessed by one person.
 - 3) The acceptance portion of the [installment](#) agreement is signed by the interested party or his/her authorized representative.
- b) A notice of default on an installment agreement shall not be accepted by the Department for purposes of [IVC Section 7-208\(c\) of the Illinois Safety and Family Financial Responsibility Law \[625 ILCS 5/7-208\(c\)\]](#) unless the following conditions are met:
 - 1) The installment agreement is on file with the Department.

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- 2) The notice of default is signed by the person who signed the acceptance portion of the installment agreement.
- c) A person who defaults on an installment agreement shall have his/her driver's license and registration or non-residents operating privileges suspended until the conditions in [IVC Section 7-208 of the Illinois Safety and Family Financial Responsibility Law \[625 ILCS 5/7-208\]](#) have been met.
- d) If a person's security requirement has not been terminated pursuant to [IVC Section 7-210 of the Illinois Safety and Family Financial Responsibility Law \[625 ILCS 5/7-210\]](#), he/she shall be eligible to file an affidavit for termination of suspension 2 years from the date of the original suspension or 2 years from the date of the default, whichever is later. The affidavit for termination of suspension shall be a notarized affidavit from the suspended person stating to the best of his/her knowledge, he/she has not been or is not being sued.
- e) A file on an installment agreement following an accident shall be closed by the Department, if the following conditions are met:
 - 1) The agreed time and payment schedule have elapsed.
 - 2) The Department has not been notified of a default.
 - 3) The Department has sent a letter to all interested parties inquiring about the disposition of the agreement allowing the interested parties 2 weeks to reply.
 - 4) The installment agreement was accepted by the Department at least 4 years ago.

(Source: Amended at 42 Ill. Reg. 16552, effective August 23, 2018)

Section 1070.75 Post-Unsatisfied Judgment Action

- a) A Post-Unsatisfied Judgment Action form shall be used to notify the Department of any of the following actions:
 - 1) Entry of a court order authorizing a defendant to pay an unsatisfied judgment in installment payments pursuant to IVC Section 7-312;

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- 2) Entry of a court order finding the defendant in default of a previously ordered installment agreement entered pursuant to IVC Section 7-312;
 - 3) Entry of a court order vacating an unsatisfied judgment;
 - 4) Filing with the court a satisfaction and release of an unsatisfied judgment.
- b) Any Post-Unsatisfied Judgment Action form must be completed in its entirety. Incomplete forms will be returned by the Department to the submitter. A copy of the form may be found in Appendix A.
- c) Documentation other than a Post-Unsatisfied Judgment Action form will not be accepted to terminate or impose a driver's license suspension for any of the reasons set forth in subsections (a)(1) through (4).

(Source: Added at 42 Ill. Reg. 16552, effective August 23, 2018)

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Section 1070. Appendix A Post-Unsatisfied Judgment Action Form

ILLINOIS SECRETARY OF STATE
DRIVER SERVICES DEPARTMENT

**REPORT ON CIVIL JUDGMENT INVOLVING A MOTOR VEHICLE ACCIDENT
(MUST BE FILE-STAMPED BY COURT)**

PLAINTIFF		VS.		DEFENDANT	
DEFENDANT ADDRESS (STREET)		CITY	STATE	ZIP	
DATE OF BIRTH					
CASE #	DATE OF ACCIDENT	DATE OF JUDGMENT	DRIVER'S LICENSE NUMBER		
Check the appropriate box:					
<input type="checkbox"/> INSTALLMENT AGREEMENT ORDERED: I hereby certify that on _____, the court entered an order authorizing payment by installment agreement.					
<input type="checkbox"/> DEFAULT OF INSTALLMENT AGREEMENT: I hereby certify that on _____, the court entered an order that the defendant is in default of, and vacated, the installment agreement.					
<input type="checkbox"/> JUDGMENT RELEASED: I hereby certify that on _____, having received full satisfaction of all sums of monies due from the judgment debtor, the judgment was released by the judgment creditor.					
<input type="checkbox"/> JUDGMENT VACATED: I hereby certify that on _____, the court entered an order vacating the judgment that was rendered on _____.					
NAME OF COURT		CITY	COUNTY	STATE	
NAME OF ATTORNEY		ADDRESS (STREET)			
PHONE		CITY	STATE	ZIP	
SIGNATURE OF ATTORNEY SUBMITTING FORM				ARDC #	

Printed by authority of the State of Illinois. February 2018 - JM - DSD A 309

(Source: Added at 42 Ill. Reg. 16552, effective August 23, 2018)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Long Term Care Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 153
- 3) Section Number: 153.125 Emergency Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rule: August 27, 2018
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Upon adoption of the proposed general rulemaking.
- 7) Date Filed with the Index Department: August 27, 2018
- 8) A copy of the emergency rules, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: PA 100-587 increases the reimbursement rates for facilities licensed under the ID/DD Community Care Act and the MC/DD Act under the medical assistance program. PA 100-587 also and grants the Department emergency rulemaking authority pursuant to 5 ILCS 100/5-45(bb) to provide for the expeditious and timely implementation of the changes to Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code. The General Assembly deems the adoption of these emergency rules to be necessary for the public interest, safety, and welfare.
- 10) Complete Description of the Subjects and Issues Involved: This proposed amendment implements PA 100-587 by increasing the per diem and developmental training reimbursement rates under the Medical Assistance Program for facilities licensed under the ID/DD Community Care Act and the MC/DD Act by an amount sufficient to provide, at minimum, a \$0.50 per hour wage increase to front-line personnel.
- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: This emergency rulemaking does not affect units of local government.

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- 13) Information and questions regarding this emergency rule shall be directed to:

Christopher Gange
Acting General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

HFS.Rules@illinois.gov

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 153

LONG TERM CARE REIMBURSEMENT CHANGES

Section

153.100 Reimbursement for Long Term Care Services

153.125 Long Term Care Facility Rate Adjustments

EMERGENCY

153.126 Long Term Care Facility Medicaid Per Diem Adjustments

153.150 Quality Assurance Review (Repealed)

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

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17817, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 11088, effective July 1, 2003, for a maximum of 150 days; amended at

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27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to the Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; emergency expired November 27, 2006; amended at 30 Ill. Reg. 14315, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 18779, effective November 28, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 6954, effective April 26, 2007; emergency amendment at 32 Ill. Reg. 535, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 4105, effective March 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7761, effective May 5, 2008; amended at 32 Ill. Reg. 9972, effective June 27, 2008; amended at 33 Ill. Reg. 9347, effective July 1, 2009; emergency amendment at 34 Ill. Reg. 17462, effective November 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 6171, effective March 28, 2011; amended at 35 Ill. Reg. 19524, effective December 1, 2011; emergency amendment at 36 Ill. Reg. 10416, effective July 1, 2012 through June 30, 2013; amended at 36 Ill. Reg. 17405, effective December 1, 2012; amended at 37 Ill. Reg. 10529, effective June 27, 2013; emergency amendment at 38 Ill. Reg. 15732, effective July 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 23799, effective December 2, 2014; emergency amendment at 39 Ill. Reg. 6956, effective May 1, 2015 through June 30, 2015; emergency amendment at 41 Ill. Reg. 12632, effective September 25, 2017, for a maximum of 150 days; amended at 42 Ill. Reg. 4594, effective February 20, 2018; emergency amendment at 42 Ill. Reg. 16562, effective August 27, 2018, for a maximum of 150 days.

Section 153.125 Long Term Care Facility Rate Adjustments**EMERGENCY**

- a) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates established on July 1, 1996 shall be increased by 6.8 percent for services provided on or after January 1, 1997.
- b) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1998, for services provided on or after that date, shall be increased by three percent. For nursing facilities (SNF/ICF) only, \$1.10 shall also be added to

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

the nursing component of the rate.

- c) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1999, for services provided on or after that date, shall include:
 - 1) an increase of 1.6 percent for SNF/ICF, ICF/MR and developmental training rates;
 - 2) an additional increase of \$3.00 per resident day for ICF/MR rates; and
 - 3) an increase of \$10.02 per person, per month for developmental training rates.
- d) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF rates shall be increased by \$4.00 per resident day for services provided on or after October 1, 1999.
- e) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF, ICF/MR and developmental training rates shall be increased 2.5 percent per resident day for services provided on or after July 1, 2000.
- f) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2001 shall be computed using the most recent cost reports on file with the Department no later than April 1, 2000, updated for inflation to January 1, 2001.
 - 1) The Uniform Building Value shall be as defined in 89 Ill. Adm. Code 140.570(b)(10), except that, as of July 1, 2001, the definition of current year is the year 2000.
 - 2) The real estate tax bill that was due to be paid in 1999 by the nursing facility shall be used in determination of the capital component of the rate. The real estate tax component shall be removed from the capital rate if the facility's status changes so as to be exempt from assessment to pay real estate taxes.
 - 3) For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

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NOTICE OF EMERGENCY AMENDMENT

- 4) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under Section 153.125(f) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- g) Notwithstanding the provisions set forth in Section 153.100, intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), shall receive an increase in rates for residential services equal to a statewide average of 7.85 percent. Residential rates taking effect March 1, 2001, for services provided on or after that date, shall include an increase of 11.01 percent to the residential program rate component and an increase of 3.33 percent to the residential support rate component, each of which shall be adjusted by the geographical area adjuster, as defined by the Department of Human Services (DHS).
- h) For developmental training services provided on or after March 1, 2001, for residents of long term care facilities, rates shall include an increase of 9.05 percent and rates shall be adjusted by the geographical area adjuster, as defined by DHS.
- i) Notwithstanding the provisions set forth in Section 153.100, daily rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 2.247 percent for services provided during the period beginning on April 11, 2002, and ending on June 30, 2002.
- j) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2002, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be reduced to the level of the rates in effect on April 10, 2002.
- k) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2002 will be 5.9 percent less than the rates in effect on June 30, 2002.
- l) Notwithstanding the provisions set forth in Section 153.100, daily rates effective

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on July 1, 2003, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3.59 percent.

- m) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on July 1, 2003 shall be increased by 4 percent.
- n) Notwithstanding the provisions set forth in Section 153.100, pending the approvals described in this subsection (n), nursing facility (SNF/ICF) rates effective July 1, 2004 shall be 3.0 percent greater than the rates in effect on June 30, 2004. The increase is contingent on approval of both the payment methodologies required under Article 5A-12 of the Public Aid Code [305 ILCS 5/5A-12] and the waiver granted under 42 CFR 433.68.
- o) Notwithstanding the provisions set forth in Section 153.100, the "Original Building Base Cost" for nursing facilities (SNF/ICF) which have been rented continuously from an unrelated party since prior to January 1, 1978, effective on July 1, 2004, shall be added to the capital rate calculation using the most recent cost reports on file with the Department no later than June 30, 2004. The "Original Building Base Cost" as defined in 89 Ill. Adm. Code 140.570 shall be calculated from the original lease information that is presently on file with the Department. This original lease information will be used to capitalize the oldest available lease payment from the unrelated party lease that has been in effect since prior to January 1, 1978, and continued to be in effect on December 31, 1999. Before the lease payment is capitalized, a 15 percent portion will be removed from the oldest available lease payment for movable equipment costs. After the lease payment is capitalized, a portion of the capitalized amount will be removed for land cost. The land cost portion is 4.88 percent. The remaining amount will be the facility's building cost. The construction/acquisition year for the building will be the date the pre-1978 lease began. The allowable cost of subsequent improvements to the building will be included in the original building base cost. The original building base cost will not change due to sales or leases of the facility after January 1, 1978.
- p) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on January 1, 2005 will be 3.0 percent more than the rates in effect on December 31, 2004.

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- q) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates shall be increased by the difference between a facility's per diem property, liability and malpractice insurance costs as reported in the cost report that was filed with the Department and used to establish rates effective July 1, 2001, and those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations.
- r) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on January 1, 2006 for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3 percent.
- s) Notwithstanding the provisions set forth in Section 153.100, developmental training rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), effective on January 1, 2006 shall be increased by 3 percent.
- t) Notwithstanding the provisions set forth in Section 153.100, for facilities that are federally defined as Institutions for Mental Disease (see Section 145.30), a socio-development component rate equal to 6.6% of the nursing component rate as of January 1, 2006 shall be established and paid effective July 1, 2006. This rate shall become a part of the facility's nursing component of the Medicaid rate. While this rate may be adjusted by the Department, the rate shall not be reduced.
- u) Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the support component of the rates taking effect on January 1, 2008 shall be computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006.
 - 1) Support rates taking effect on January 1, 2008 shall be adjusted based on audits of cost report data in accordance with 89 Ill. Adm. Code 140.582(b) and 140.590. The audited cost report data will be used to retroactively update the resulting support rate effective January 1, 2008, after the 45-day appeal period from Section 140.582(b) has passed.

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- 2) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under this subsection (u) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- v) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning August 1, 2008, the socio-development component for facilities that are federally defined as Institutions for Mental Disease (see 89 Ill. Adm. Code 145.30) shall equal 6.6% of the facility's nursing component rate as of January 1, 2006, multiplied by a factor of 3.53.
- w) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning January 1, 2009, the support component for skilled and intermediate care facilities that was effective on January 1, 2008, computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard Department of Healthcare and Family Services methods, procedures and inflators described in Sections 140.533, 140.551, 140.553 and 140.561.
- x) Notwithstanding the provisions set forth in Section 153.100, effective November 1, 2010, the program and support components of the per diem rate for ICF/MR qualifying under 89 Ill. Adm. Code 144.102 shall be adjusted in accordance with that Section.
- y) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 96-1530, for services beginning May 1, 2011, the socio-development component for facilities that are federally defined as Institutions for Mental Disease (IMD) (see 89 Ill. Adm. Code 145.30) and that are Medicaid certified will have the nursing component of their rate fully funded using the MDS methodology and will also receive an increase to their socio-development component rate. The socio-development component rate increase will be equal to two-thirds of the difference between the highest nursing rate among the Medicaid certified IMD facilities and the individual IMD's nursing rate. This rate change is subject to approval by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

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- z) Notwithstanding the provisions set forth in Section 153.100, effective for services beginning May 1, 2011, facilities that are federally defined as Institutions for Mental Disease (see 89 Ill. Adm. Code 145.30) and determined to be Subpart T facilities (see 89 Ill. Adm. Code 145.10) will receive an increase to their socio-development component rate of \$.50 per day, per resident.
- aa) Notwithstanding the provisions set forth in Section 153.100, effective for services beginning August 1, 2017, facilities licensed by the Department of Public Health under the ID/DD Community Care Act [210 ILCS 47] as an ID/DD facility and medically complex for the developmentally disabled facilities licensed under the MC/DD Act [210 ILCS 46] as an MC/DD facility will receive an increase to their reimbursement rates sufficient to provide a \$0.75 per hour wage increase for non-executive staff.
- bb) [Notwithstanding the provisions set forth in Section 153.100, effective for services beginning July 1, 2018, facilities licensed by the Department of Public Health under the ID/DD Community Care Act \[210 ILCS 47\] or MC/DD Act \[210 ILCS 46\] will receive an increase to the facility per diem rates and developmental training rates as follows:](#)
- 1) [Facilities outside the geographic boundaries of the City of Chicago, will receive an increase to their reimbursement rates sufficient to provide a \\$0.50 per hour wage increase for front-line personnel.](#)
 - 2) [Facilities inside the geographic boundaries of the City of Chicago, will receive an increase to their reimbursement rates sufficient to provide a \\$0.54 per hour wage increase for front-line personnel.](#)

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 16562, effective August 27, 2018, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of August 21, 2018 through August 27, 2018. The rulemakings are scheduled for the September 18, 2018 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>
10/4/18	<u>Office of the State Treasurer</u> , Secure Choice Savings Program (74 Ill. Adm. Code 721)	6/15/18 42 Ill. Reg. 10351	9/18/18
10/5/18	<u>Department of Financial and Professional Regulation</u> , Pharmacy Practice Act (68 Ill. Adm. Code 1330)	12/26/17 42 Ill. Reg. 15130	9/18/18
10/7/18	<u>Pollution Control Board</u> , Emissions Reduction Market System (35 Ill. Adm. Code 205)	4/13/18 42 Ill. Reg. 6572	9/18/18
10/7/18	<u>Pollution Control Board</u> , General Provisions (35 Ill. Adm. Code 900)	4/6/18 42 Ill. Reg. 5946	9/18/18
10/7/18	<u>Pollution Control Board</u> , Sound Emission Standards and Limitations for Property Line-Noise Sources (35 Ill. Adm. Code 901)	4/6/18 42 Ill. Reg. 5367	9/18/18
10/7/18	<u>Pollution Control Board</u> , Sound Emission Standards and Limitations for Motor Vehicles (35 Ill. Adm. Code 902)	4/6/18 42 Ill. Reg. 5988	9/18/18

10/7/18	<u>Pollution Control Board</u> , Measurement Procedures for the Enforcement of 35 Ill. Adm. Code 900 & 901 (35 Ill. Adm. Code 910)	4/6/18 42 Ill. Reg. 6001	9/18/18
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ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 42, Issue 36 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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35 - 607	16472
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ADOPTED RULES

14 - 531	8/21/2018	16493
38 - 1075	8/23/2018	16507
68 - 1140	9/7/2018	16524
92 - 1070	8/23/2018	16552

EMERGENCY RULES

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