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DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Claims, Adjudication, Appeals And Hearings
- 2) Code Citation: 56 Ill. Adm. Code 2720
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2720.20	Amend
2720.132	Amend
2720.160	Amend
- 4) Statutory Authority: 820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304.
- 5) A Complete Description of the Subjects and Issues Involved: In accordance with an agreement between this Department, business, organized labor and the Illinois State Bar Association, the Department wishes to increase the maximum hourly amount that an attorney may charge a claimant, without prior approval from the Board of Review, for representation in a contested unemployment insurance matter.

The proposed amendment to Section 2720.132 updates an address.

The Department intends to revise its rules to reflect the amendment to the Unemployment Insurance Act which expands the period in which it may reconsider a claimant's eligibility for benefits where the claimant had received a back pay award or misstated his/her earnings from one and two years, respectively, to three years.
- 6) Will these proposed amendments replace any emergency amendments currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives? This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street – Room 937
Chicago, IL 60603
312-793-4240

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].

The proposed amendments have no direct impact on small businesses, small municipalities and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80 and 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as a small business, small municipality or not-for-profit corporation as part of any written comments submitted to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small business, small municipalities and not for profit corporations affected: The proposed rules have no direct effect on businesses though, if a governmental entity or not for profit corporation had elected to make payments in lieu of contributions, it might receive additional credit for recovered benefits as a result of the increased time period to make recoupment.
- B) Reporting, bookkeeping or other procedures required for compliance: None, except to the extent that the Department may attempt to verify the earnings of a particular claimant in more instances due to the increased time to reconsider prior determinations.
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2004

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER a: GENERAL PROVISIONSPART 2720
CLAIMS, ADJUDICATION, APPEALS AND HEARINGS

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Section

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2720.7	Application For Electronic Data Transmission
2720.10	Computation Of Time
2720.15	Disqualification Of Adjudicator, Referee, Or Board Of Review
2720.20	Attorney Representation Of Claimants
2720.25	Form Of Papers Filed
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NOTICE OF PROPOSED AMENDMENTS

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AUTHORITY: Implementing and authorized by Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act [820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304].

SOURCE: Adopted at 8 Ill. Reg. 24957, effective January 1, 1985; amended at 10 Ill. Reg. 12620, effective July 7, 1986; amended at 11 Ill. Reg. 14338, effective August 20, 1987; amended at 11 Ill. Reg. 18671, effective October 29, 1987; amended at 12 Ill. Reg. 14660, effective September 6, 1988; emergency amendments at 13 Ill. Reg. 11890, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 18263, effective November 9, 1989; amended at 14 Ill. Reg. 15334, effective September 10, 1990; amended at 14 Ill. Reg. 18489, effective November 5, 1990; amended at 16 Ill. Reg. 2556, effective January 30, 1992; emergency amendment at 16 Ill. Reg. 7506, effective April 22, 1992, for a maximum of 150 days; emergency expired September 19, 1992; amended at 17 Ill. Reg. 17937, effective October 4, 1993; amended at 18 Ill. Reg. 16340, effective October 24, 1994; amended at 21 Ill. Reg. 9441, effective July 7, 1997; amended at 21 Ill. Reg. 12129, effective August 20, 1997; emergency amendment at 27 Ill. Reg. 4217, effective February 15, 2003, for a maximum of 150 days; emergency expired July 15, 2003; amended at 28 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 2720.20 Attorney Representation Of Claimants

- a) Attorneys for claimants must file an "Attorney Appearance and Authorization for Representation" form signed by the claimant and his attorney. This form must be filed with the Agency prior to a hearing before an Adjudicator or Referee, or prior to the decision of an Adjudicator, Referee, or Board of Review, whichever occurs first after the Attorney begins his representation of the claimant.
- b) Absent prior approval by the Board of Review pursuant to subsection (c), an attorney representing a claimant may not charge or receive more than:
 - 1) 15% of the amount of the weekly benefits in a claim series received by the

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claimant after the claimant hires the attorney; or

- 2) ~~\$150~~\$50 per hour, whichever is greater.
- c) If an attorney believes that the fee arrived at pursuant to subsection (b) is inadequate, the attorney may file a request with the Board of Review setting forth the facts supporting the attorney's claim for additional fees. Such requests shall include the attorney's certification that the claimant was served with a copy of the request. The Board of Review shall grant or deny ~~thesueh~~ request in whole or in part based on whether the complexity of the case, the result obtained, the expertise required and the time expended in rendering legal services warrant a fee in excess of that allowable pursuant to subsection (b).
- d) A claimant wishing to comment on or object to a request for additional fees under subsection (c) shall do so in writing to the Board of Review within 10 days after the request is served on him. All decisions regarding requests for additional fees shall articulate the reasons for the grant or denial of ~~thesueh~~ request and shall be final administrative decisions. Nothing in this Section shall be construed as prohibiting an attorney from collecting the sum allowable under subsection (b) prior to the decision of the Board of Review.
- e) A claimant or employer may authorize an attorney or his designated agent to review the agency file regarding ~~thesueh~~ claimant or employer for the purpose of determining whether to represent ~~thesueh~~ claimant or employer in proceedings before the Agency. ~~TheSueh~~ authorization shall be in writing and may be delivered to the Agency office applicable to the particular claimant's or employer's case. Upon delivery of ~~thesueh~~ authorization to the applicable Agency office, the attorney or its designated agent may review the file without filing an appearance form or becoming the claimant's or employer's counsel of record.

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

SUBPART B: APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS

Section 2720.132 Required Notice By An Employer Of Separation For Alleged Felony Or Theft Connected With The Work

- a) Whenever an employer discharges an individual for an alleged felony or theft in connection with his work, the employer shall notify the Agency of the separation.

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- b) The notification required by subsection (a) shall include the name of the individual discharged, his social security number, the name of the employer, its mailing address, its Illinois Employer Account Number, and the date of separation.
- c) If the notification required by subsection (a) meets the sufficiency requirements of Section 602B of the Act and is mailed to the Agency within at least 10 days after the date that the individual files his next claim for benefits, then such employer shall be a party to the Agency's determination of eligibility under Section 602(B) of the Act.
- d) Except when the notification is being made in response to a "Notice of Claim to Last Employing Unit and Last Employer or Other Interested Party", the notification required by subsection (a) must be sent to:

Illinois Department of Employment Security
~~33401~~ South State Street, ~~9th Floor~~ ~~3 South~~
Chicago, IL ~~60603~~ ~~60605~~
Attn: Felony and Theft Unit:

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

Section 2720.160 Reconsidered Findings Or Determination

- a) *An Adjudicator shall reconsider an original Finding or Determination at the written request of a party or upon receipt of new information relating to the original issues, if the request is received by the Agency within the following time limits ~~herein~~:*
- 1) *In the case of a Finding, within 13 weeks after the close of the claimant's benefit year;*
 - 2) *In the case of a Determination, within 1 year after the last day of the week for which the Determination was made, except that if the issue is whether or not the claimant misstated his earnings for the week or whether or not the claimant has been paid wages by reason of a back pay award made by any governmental agency or pursuant to arbitration proceedings or by reason of a payment of wages wrongfully withheld by an employing unit, within 32 years after the last day of the week [820 ILCS 405/703]-(III. Rev. Stat. 1985, Ch. 48, par. 453);*

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- 3) A Finding or Determination shall not be reconsidered subsequent to the filing of an appeal under Section 2720.200, except where the issue is newly discovered as to whether or not the claimant misstated his earnings, or unless the matter is remanded to the Adjudicator by a Referee, the Board of Review or a court.
- b) A reconsidered Finding or Determination shall relate only to the issues and period of time set forth in the original Finding or Determination.
- c) The Adjudicator shall investigate the original records and facts and document a report of a reconsidered investigation ~~that~~~~which~~ includes the new information, and shall:
 - 1) Affirm the original Finding or Determination if the new facts are not sufficient to modify or reverse the original Finding or Determination and, unless otherwise instructed by the party, process an appeal to the Referee on behalf of the requesting party, in accordance with Section 2720.200, in which case the appeal shall be considered an appeal to the original Finding or Determination; or,
 - 2) Modify or reverse the original Finding or Determination if the new facts require a different result, and issue a reconsidered Finding or Determination to the parties vacating and replacing the original Finding or Determination and affording full appeal rights under Section 2720.200.

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

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Notices, Records, Reports
- 2) Code Citation: 56 Ill. Adm. Code 2760
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2760.105	Amendment
2760.110	Amendment
2760.140	Amendment
- 4) Statutory Authority: 820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208.
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment to Section 2760.105 removes language which was made obsolete by a change in the statute (Section 1507 of the Unemployment Insurance Act).

The proposed amendment to Section 2760.110 implements Section 301B of the Unemployment Insurance Act which allows the Director to terminate employer accounts on her own initiative pursuant to promulgated rules.

This proposed amendment to Section 2760.140 is intended to clarify the ramifications of an employer's failure to comply with this rule. The new example explains that a reporting penalty will be imposed monthly even if the employer submits its report on paper. When each penalty is imposed, the employer's contribution payment is reallocated to cover the penalty, and this will increase the balance of its unpaid contributions.

The second change in this rule clarifies that, if the Internal Revenue Service grants an employer a waiver from its electronic reporting requirements for a year, the Illinois exemption will apply to the employer's compliance with this rule for the next year. For example, if the employer had more than 250 employees in 2004 and the Internal Revenue Service exempts it from electronic reporting for that year, the employer is not required to report electronically in Illinois for any quarter in the next year, 2005.

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

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- 10) Statement of Statewide Policy Objective? This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street – Room 937
Chicago, IL 60603
312-793-4240

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].

This proposed amendment may have an impact on small businesses, small municipalities and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80 and 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as a small business, small municipality or not-for-profit corporation as part of any written comments submitted to the Department.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small business, small municipalities and not for profit corporations affected: The proposed rules have the same potential impact on all businesses.
- B) Reporting, bookkeeping or other procedures required for compliance: Pursuant Section 2760.140, entities that employed 250 or more employees during the prior calendar year already must report electronically rather than on paper. The proposed amendment will not change that requirement.
- C) Types of professional skills necessary for compliance: The Agency supplies the software needed to comply with Section 2760.140.

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13) Regulatory Agenda on which this rulemaking was summarized: July 2004

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERSPART 2760
NOTICES, RECORDS, REPORTS

SUBPART A: GENERAL OBLIGATIONS

Section

2760.1	Posting And Maintaining Notices
2760.5	Identification Of Workers Covered By The Act
2760.10	Filing By Mail

SUBPART B: REPORTS AND RECORDS

Section

2760.100	Reports
2760.105	Reports Of Employing Units As To Their Status
2760.110	Employing Unit Terminating Business
2760.115	Records With Respect To Employment
2760.120	Employer's Contribution Report
2760.125	Employer's Wage Report
2760.130	Reporting "Excess" Wages
2760.135	Remittance Of Contributions Due And Use Of Transmittal Form
2760.140	Use Of Electronic Data Processing Media For Quarterly Reporting
2760.145	Correcting The "Employer's Contribution And Wage Report"
2760.150	Consequences Of An Error In The Preparation Of The "Employer's Contribution And Wage Report"

AUTHORITY: Implementing and authorized by Sections 204, 234, 245, 300, 302, 700, 1400, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208 of the Unemployment Insurance Act [820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208].

SOURCE: Department of Labor, Bureau of Employment Security Regulations 4, 7 and 8, filed as amended May 3, 1977, effective May 13, 1977; Regulation 11 filed as amended May 4, 1977, effective May 14, 1977; Regulations 5 and 32 filed as amended June 23, 1977, effective July 3, 1977; Regulations 6 and 12 filed as amended September 12, 1977, effective September 12, 1977; rules repealed by operation of law on October 1, 1984; new rules adopted at 10 Ill. Reg. 6939,

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effective April 15, 1986; emergency amendment at 12 Ill. Reg. 222, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 13604, effective August 4, 1988; amended at 12 Ill. Reg. 16070, effective September 23, 1988; amended at 16 Ill. Reg. 3993, effective February 27, 1992; emergency amendment at 17 Ill. Reg. 13798, effective August 4, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 261, effective December 27, 1993; emergency amendment at 18 Ill. Reg. 2631, effective February 3, 1994, for a maximum of 150 days; emergency amendment modified at 18 Ill. Reg. 7492; emergency expired July 3, 1994; amended at 18 Ill. Reg. 14942, effective September 27, 1994; amended at 28 Ill. Reg. _____, effective _____.

SUBPART B: REPORTS AND RECORDS

Section 2760.105 Reports Of Employing Units As To Their Status

- a) Any employing unit ~~that~~which commences business in any manner whatsoever, whether by purchase of a business already being operated, by starting a new business, or otherwise, shall, within 30 days after such commencement, file form ~~UI-1 UC-1~~ "Report To Determine Liability Under the Illinois Unemployment Insurance Act", or a document that includes the same information with the Director of Employment Security, 401 South State Street, Chicago, Illinois, 60605, Attn: Revenue Division.
- b) In addition to complying with the requirements of subsection (a) where applicable, Effective with transfers or sales made on or after January 1, 1988, any employing unit ~~that~~which succeeds to substantially all of the assets of an organization, trade or business, or of a severable portion ~~of those assets thereof,~~ shall ~~file~~notify the Director, within 120 calendar days of such transfer or sale on form ~~UI-1 S&PUC-1~~ "Report To Determine Succession" ~~Liability Under the Illinois Unemployment Insurance Act~~ or a document ~~that~~which includes the same information ~~(copies of form UC-1 are available at the address given in (a) above).~~ ~~Any successor employing unit which fails to so notify the Director within the 120 day period shall not be entitled to the lower contribution rate of the predecessor employing unit. Notice~~ A report of such a sale or transfer by the successor to a severable portion of the predecessor's organization, trade or business shall not constitute a joint application for the predecessor's experience rating record ~~(to which a different time limit applies)~~ unless the ~~report~~notice also includes the additional requirements set forth in Section 1507(B)(2)-(3) of the Unemployment Insurance Act (Act).
- c) The reports required under subsections (a) and (b) shall be filed with the Director

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of Employment Security, 33 South State Street, 10th Floor, Chicago, Illinois 60603, Attn: Revenue Division. Copies of forms UI-1 and UI-1 S&P are available at that address and at www.ides.state.il.us.

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

Section 2760.110 Employing Unit Terminating Business

- a) Any employing unit ~~that~~~~which~~ terminates business (including dissolution of a partnership), for any reason whatsoever, or transfers or sells substantially all of the assets of the organization, trade or business or a severable portion of those assets~~thereof~~ to another or changes the trade name of such business shall, within ~~ten~~~~(10)~~ days after such termination, transfer or change of name, give notice in writing of that fact to the Director.
- 1) If an employer dies, written notice of his death shall be given to the Director by the executor or administrator or other legal representative of his estate within 90 days after the date of death.
 - 2) In the case of bankruptcy or receivership proceedings for the relief of a debtor who is an employing unit, the trustees in bankruptcy, receiver or person designated by order of the court as in control of the assets of the debtor shall give written notice to the Director of such proceedings within 90 days after~~of~~ the commencement of such proceedings.
- b) The notice required under this Section shall be mailed to the Department of Employment Security, Revenue Division, ~~33404~~ South State Street, 10th Floor, Chicago, Illinois, ~~6060360605~~. Forms for such notice shall be sent out by the Division upon request; they are also included in the quarterly packet sent to all employers.
- c) Notwithstanding the requirements of subsections (a) and (b), an employing unit shall cease to be an employer as of the last day of a calendar quarter in which it ceases to pay wages for services in employment and ceases to have any individual performing services for it if, based on all available evidence, the Director determines that, as of the last day of that quarter, the employing unit has permanently ceased to pay wages for services in employment and permanently ceased to have any individual performing services for it. A termination of coverage under this subsection(c) shall be rescinded as of the date that the employing unit begins, later in the same calendar year or in the succeeding

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calendar year, to have any individual performing services for it on any part of any day. Any Determination and Assessment issued against the employing unit shall be null and void to the extent it pertains to any quarter during which the employing unit paid no wages for services in employment and had no one performing services for it, as long as that quarter is subsequent to the quarter as of the end of which the employing unit's coverage was terminated pursuant to this subsection (c) and prior to the date, if any, as of which the termination was rescinded or as of which the employing unit otherwise again became an employer.

- 1) Example: Employer A (a sole proprietor) employed B (his sole employee) as a word processor. B left A's employ in September 2003 and A did not hire anyone else thereafter. A filed a contribution and wage report for the third quarter of 2004, but did not file a contribution and wage report for the fourth quarter of that year. He did not file a notice requesting termination of coverage or otherwise inform the Department that he had ceased to pay wages and no longer had any individual performing services for him. In March 2004, the Department issued a Determination and Assessment against A based upon estimated wages for the fourth quarter of 2003. A failed to file a protest and petition for hearing to the Determination and Assessment. In June 2004, A presented evidence to the Department that, since September 2003, he had no one performing services for him and had not paid any wages. With no evidence to suggest otherwise, the Department treated the Determination and Assessment as null and void.
- 2) Example: Employer C (a sole proprietor) employed D (her only employee) as a word processor. In September 2003, C decided that D would continue the word processing work, but as an "independent contractor". C did not report D's wages to the Department, nor pay contributions on those wages, with respect to periods after the third quarter of 2003 and did not file a notice requesting termination of coverage. In March 2004, the Department issued a Determination and Assessment against C based upon estimated wages for the fourth quarter of 2003. C failed to file a timely protest and petition for hearing to the Determination and Assessment, but in June 2004, wrote the Director explaining that D was now working as an "independent contractor". As D was still performing services for C during the fourth quarter, the Director lacked the authority to terminate C's coverage. By not timely protesting the Determination and Assessment, C allowed it to become final and waived

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her opportunity to reach the merits of whether D was an independent contractor during the fourth quarter.

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

Section 2760.140 Use Of Electronic Data Processing Media For Quarterly Reporting

- a) Except as provided in subsections (g) and (h) of this Section, effective with the reports due for the first quarter of 1994, the reports required by Sections 2760.120 and 2760.125 must be filed by the use of an electronic data processing medium thatwhich meets the approval of the Director. The Director shall approve the use of electronic data processing media for reporting if he finds that:
- 1) All of the data required on the forms provided by the Director for quarterly reporting are also provided by the employer in the same format on the electronic data processing medium; and
 - 2) The employer's electronically data processed reports are compatible and readable by the electronic data processing equipment used by the Director without the need for any programming adjustment by the Director.
- b) Subsection (a) shall only apply to an employer for a calendar year if the employer had 250 or more individuals in its employ (though not necessarily at the same time) during the prior calendar year.
- Example: During 1993, the employer has no more than 225 individuals in its employ at any one time. However, during the year, 25 of these individuals leave the employ of the employer and are replaced by 25 other individuals. Though the employer's labor force never exceeds 225 individuals at any one time, the employer had 250 individuals in its employ during 1993 and, therefore, is subject to subsection (a) for 1994.
- c) Except as otherwise provided for in this subsection (c), the failure of an employer thatwhich is subject to subsection (a) to report in the manner required by that subsection shall subject the employer to the penalties set forth in Section 1402 of the Act. The Director shall, without further action by the employer being required, find good cause for the waiver of penalty, for any quarter in 1994 only, where an employer subject to the mandatory electronic reporting requirements of this Section files its reports for that quarter in compliance with Sections 2760.120 and 2760.125.

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Example: An employer subject to the reporting requirements of subsection (a) beginning in 2004 files a report only in compliance with Sections 2760.120 and 2760.125 for the fourth quarter of that year on January 20, 2005, and also remits the contributions then due for that quarter. On February 1, 2005, if that employer has not yet complied with subsection (a), it is delinquent in the filing of its fourth quarter of 2004 report, the penalty set forth in Section 1402 of the Act shall be imposed, and its payment shall be reallocated in accordance with Section 2765.45 to reflect the payment of the penalty and a delinquency in contributions due. If the requirements of subsection (a) have still not been complied with before March 1, 2005 and the maximum penalty has not yet been imposed, the penalty will be increased on that date and the employer's payment again reallocated to reflect payment of the increased penalty and an additional delinquency.

- d) Where not required by subsection (a), the reports required by Sections 2760.120 and 2760.125 may be made by the use of an electronic data processing medium thatwhich meets the prior written approval of the Director. The Director shall approve the use of an electronic data processing medium for reporting if it meets the requirements of subsections (a)(1) and (a)(2) of this Section and if the employer agrees to file both reports by the use of an electronic data processing medium.
- e) Any employer thatwhich was authorized by the Director, before December 27, 1993, to submit both of its quarterly reports on an electronic data processing medium may continue to do so without further approval by the Director, on the condition that the medium continues to meet the requirements of subsections (a)(1) and (a)(2) of this Section. TheSuch employer is, however, subject to the requirements of subsection (f) of this Section.
- f) The first report submitted electronically pursuant to this Section for any calendar year must be accompanied by a certification, on a form provided for this purpose by the Director, signed by the owner, partner or authorized officer or official, that the information submitted is true and correct to the best of his knowledge and belief and that no part of the contribution reported was or is to be deducted from the worker's wages.
- g) Where the employer demnstrates that the Commissioner of the Internal Revenue Service has waived the electronic reporting requirements of Treasury Regulation

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301.6011-2 (26 CFR 301.6011-2), or its successor, for the employer with respect to documents covering a calendar year, the Director shall waive the reporting requirements of this Section for that employer with respect to reports covering the subsequent calendar year.

Example: In December 2004, the Commissioner of the Internal Revenue Service notifies an employer that the requirements of Treasury Regulation 301.6011-2 (26 CFR 301.6011-2), or its successor, have been waived with respect to Form W-2 data covering calendar year 2004, meaning that the employer will not be required to submit the data electronically in 2005. If the employer demonstrates the waiver to the Director, the Director will waive the requirements of subsection (a) with respect to reports covering 2005.

~~The Director shall waive the reporting requirements of this Section for any employer which has been granted waiver of the electronic reporting requirements of Internal Revenue Service Procedure 91-33. If the waiver granted by the Commissioner of the Internal Revenue Service covers a period other than a calendar year, the Director shall waive the reporting requirements of this Section for the calendar year or years of which the Internal Revenue Service's waiver covers a portion.~~

~~Example: The Commissioner of the Internal Revenue Service waives the reporting requirements of Internal Revenue Service Procedure 91-33 for an employer for the period from July 1, 1994 through June 30, 1995. The Director shall waive the reporting requirements of this Section for both calendar years 1994 and 1995.~~

- h) Where an employer was not subject to the mandatory electronic reporting requirements of this Section for any quarter of the prior calendar year but is subject to those requirements for the current calendar year, the employer may, for the first and second quarters of the current calendar year, file its quarterly reports in compliance with Sections 2760.120 and 2760.125.

Example: The employer had, in total, 240 individuals in its employ during calendar year 1993. In calendar year 1994, the employer had, in total, 260 individuals in its employ. The employer will not be required to report electronically for the first or second quarter of calendar year 1995 but will be required to report electronically for at least the third and fourth quarters of that year.

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

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- 1) Heading of the Part: Determination Of Unemployment Contributions
- 2) Code Citation: 56 Ill. Adm. Code 2770
- 3) Section Number: Proposed Action:
2770.110 Amendment
2770.111 Amendment
- 4) Statutory Authority: 820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701.
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments to Part 2770 announce the 2005 average contribution rates for each economic sector within the North American Industry Classification System (NAICS). A new employer's contribution rate will be based on the average contribution rate for the sector to which the employer belongs if the average rate exceeds the standard new employer rate and the employer is not required to pay at a higher experience-based rate. In keeping with our commitment to the Joint Committee on Administrative Rules, we are also repealing the subsection with the rates for 1999 as it is no longer needed.
- 6) Will these proposed amendments replace any emergency amendments currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? Yes
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives? This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street – Room 937
Chicago IL 60603
312-793-4240

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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].

This proposed amendment may have an impact on small businesses, small municipalities and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80 and 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as a small business, small municipality or not-for-profit corporation as part of any written comments submitted to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small business, small municipalities and not for profit corporations affected: The proposed rules have the same potential impact on all newly established businesses.
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2004

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERSPART 2770
DETERMINATION OF UNEMPLOYMENT CONTRIBUTIONS

SUBPART A: INDUSTRIAL CLASSIFICATIONS

Section

2770.100	Pre 2003 Industrial Classification
2770.101	Post 2002 Industrial Classification
2770.105	Pre 2003 Contribution Rate For Non Experience-Rated Employers
2770.106	Post 2002 Contribution Rate For Non Experience-Rated Employers
2770.110	Average Contribution Rates By Standard Industrial Classification (SIC) Codes
2770.111	Average Contribution Rates By North American Industry Classification System (NAICS) Assignment

SUBPART B: ALTERNATIVE BENEFIT WAGE RATIO ~~(Repealed)~~

Section

2770.150	Eligibility To Elect The Alternative Benefit Wage Ratio (Repealed)
2770.155	Approval Of Election Of The Alternative Benefit Wage Ratio (Repealed)
2770.160	Adjustment Of The Benefit Wage Charges And The Determination Of The Alternative Benefit Wage Ratio (Repealed)
2770.165	Revocation Of Election Of Alternative Benefit Wage Ratio (Repealed)
2770.170	Appeals (Repealed)

SUBPART C: TRANSFER OF BENEFIT WAGES FROM BASE PERIOD TO
SUBSEQUENT EMPLOYER ~~(Repealed)~~

Section

2770.400	Definitions (Repealed)
2770.405	Application Of Base Period Wages (Repealed)
2770.410	Restriction On Benefit Wage Transfers Section (Repealed)
2770.415	Benefit Wage Transfer Procedural Requirements (Repealed)
2770.420	Petition For Hearing (Repealed)

SUBPART D: BENEFIT WAGE CANCELLATIONS

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Section

2770.501 Effective Date Of Benefit Wage Cancellations Pursuant To Section 1508.1 Of The Act

| 2770.TABLE A General SIC ~~Classifications~~Classification

AUTHORITY: Implementing and authorized by Sections 1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701].

SOURCE: Emergency rules adopted as 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 550, effective January 1, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 8208, effective May 30, 1984; recodified from 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 15030; emergency amendments at 8 Ill. Reg. 15088, effective August 8, 1984, for a maximum of 150 days; emergency amendments at 8 Ill. Reg. 22139, effective October 26, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 24117, effective November 30, 1984; amended at 9 Ill. Reg. 4507, effective March 25, 1985; amended at 10 Ill. Reg. 6935, effective April 14, 1986; amended at 10 Ill. Reg. 21683, effective December 15, 1986; amended at 11 Ill. Reg. 9878, effective May 11, 1987; emergency amendments at 12 Ill. Reg. 210, effective January 1, 1988, for a maximum of 150 days; expired May 30, 1988; amended at 12 Ill. Reg. 11213, effective June 20, 1988; amended at 12 Ill. Reg. 12473, effective July 15, 1988; amended at 12 Ill. Reg. 18143, effective October 27, 1988; amended at 12 Ill. Reg. 20477, effective November 28, 1988; amended at 13 Ill. Reg. 11507, effective June 29, 1989; amended at 14 Ill. Reg. 2038, effective January 19, 1990; amended at 14 Ill. Reg. 18280, effective October 30, 1990; amended at 15 Ill. Reg. 172, effective December 28, 1990; amended at 15 Ill. Reg. 8553, effective May 24, 1991; amended at 16 Ill. Reg. 118, effective December 20, 1991; amended at 17 Ill. Reg. 295, effective December 28, 1992; amended at 18 Ill. Reg. 250, effective January 1, 1994; amended at 18 Ill. Reg. 17473, effective January 1, 1995; amended at 20 Ill. Reg. 350, effective January 1, 1996; amended at 21 Ill. Reg. 561, effective January 1, 1997; amended at 21 Ill. Reg. 15496, effective January 1, 1998; amended at 23 Ill. Reg. 155, effective January 1, 1999; amended at 23 Ill. Reg. 14299, effective January 1, 2000; amended at 24 Ill. Reg. 19125, effective January 1, 2001; amended at 26 Ill. Reg. 393, effective January 1, 2002; amended at 27 Ill. Reg. 2598, effective February 1, 2003; amended at 28 Ill. Reg. 1071, effective January 1, 2004; amended at 28 Ill. Reg. _____, effective _____.

SUBPART A: INDUSTRIAL CLASSIFICATIONS

Section 2770.110 Average Contribution Rates By Standard Industrial Classification (SIC) Codes

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- a) ~~The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1999, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:~~

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.0%
10-14	B. Mining	3.2%
15-17	C. Construction	3.3%
20-39	D. Manufacturing	1.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.8%
50-51	F. Wholesale Trade	1.4%
52-59	G. Retail Trade	1.1%
60-67	H. Finance, Insurance, Real Estate	1.1%
70-89	I. Services	1.1%
91-97	J. Public Administration	1.0%

- b) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 2000, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.0%
10-14	B. Mining	3.1%
15-17	C. Construction	3.2%
20-39	D. Manufacturing	1.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.8%
50-51	F. Wholesale Trade	1.3%
52-59	G. Retail Trade	1.0%
60-67	H. Finance, Insurance, Real Estate	1.0%
70-89	I. Services	1.1%
91-97	J. Public Administration	1.0%

- b) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 2001, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

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Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	2.8%
10-14	B. Mining	3.2%
15-17	C. Construction	3.0%
20-39	D. Manufacturing	1.6%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.6%
50-51	F. Wholesale Trade	1.2%
52-59	G. Retail Trade	0.9%
60-67	H. Finance, Insurance, Real Estate	1.0%
70-89	I. Services	1.0%
91-97	J. Public Administration	0.9%

(c) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 2002, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	2.7%
10-14	B. Mining	3.1%
15-17	C. Construction	2.8%
20-39	D. Manufacturing	1.5%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.5%
50-51	F. Wholesale Trade	1.1%
52-59	G. Retail Trade	0.8%
60-67	H. Finance, Insurance, Real Estate	0.9%
70-89	I. Services	0.9%
91-97	J. Public Administration	0.8%

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

Section 2770.111 Average Contribution Rates By North American Industry Classification System (NAICS) Assignment

a) The average contribution rate for each Economic Sector in the North American Industry Classification System (NAICS), excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 2003, as determined by the application of Section 2770.106(a)(4) of this Part, shall be:

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Digits	Economic Sector	Rate
11	Agriculture, Forestry, Fishing and Hunting	1.5%
21	Mining	3.1%
22	Utilities	1.2%
23	Construction	2.7%
31-33	Manufacturing	1.7%
42	Wholesale Trade	1.3%
44-45	Retail Trade	1.0%
48-49	Transportation and Warehousing	1.8%
51	Information	1.3%
52	Finance and Insurance	0.9%
53	Real Estate and Rental and Leasing	1.0%
54	Professional, Scientific and Technical Services	1.0%
55	Management of Companies and Enterprises	1.3%
56	Administrative and Support and Waste Management	2.0%
61	Educational Services	0.8%
62	Health Care and Social Assistance	0.7%
71	Arts, Entertainment and Recreation	1.5%
72	Accommodation and Food Services	0.8%
81	Other Services (except Public Administration)	0.9%
92	Public Administration	0.8%
99	Unclassified	1.1%

- b) The average contribution rate for each Economic Sector in the North American Industry Classification System (NAICS), excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 2004, as determined by the application of Section 2770.106(a)(4) of this Part, shall be:

Digits	Economic Sector	Rate
11	Agriculture, Forestry, Fishing and Hunting	1.7%
21	Mining	2.9%
22	Utilities	1.5%
23	Construction	3.0%
31-33	Manufacturing	2.4%

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42	Wholesale Trade	1.7%
44-45	Retail Trade	1.2%
48-49	Transportation and Warehousing	2.2%
51	Information	1.9%
52	Finance and Insurance	1.2%
53	Real Estate and Rental and Leasing	1.2%
54	Professional, Scientific and Technical Services	1.4%
55	Management of Companies and Enterprises	1.7%
56	Administrative and Support and Waste Management	2.5%
61	Educational Services	1.0%
62	Health Care and Social Assistance	0.9%
71	Arts, Entertainment and Recreation	1.7%
72	Accommodation and Food Services	1.0%
81	Other Services (except Public Administration)	1.1%
92	Public Administration	0.9%
99	Unclassified	1.2%

c) The average contribution rate for each Economic Sector in the North American Industry Classification System (NAICS), excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 2005, as determined by the application of Section 2770.106(a)(4) of this Part, shall be:

<u>Digits</u>	<u>Economic Sector</u>	<u>Rate</u>
<u>11</u>	<u>Agriculture, Forestry, Fishing and Hunting</u>	<u>2.1%</u>
<u>21</u>	<u>Mining</u>	<u>3.2%</u>
<u>22</u>	<u>Utilities</u>	<u>1.9%</u>
<u>23</u>	<u>Construction</u>	<u>3.8%</u>
<u>31-33</u>	<u>Manufacturing</u>	<u>3.2%</u>
<u>42</u>	<u>Wholesale Trade</u>	<u>2.3%</u>
<u>44-45</u>	<u>Retail Trade</u>	<u>1.6%</u>
<u>48-49</u>	<u>Transportation and Warehousing</u>	<u>2.8%</u>
<u>51</u>	<u>Information</u>	<u>2.4%</u>
<u>52</u>	<u>Finance and Insurance</u>	<u>1.5%</u>
<u>53</u>	<u>Real Estate and Rental and Leasing</u>	<u>1.6%</u>
<u>54</u>	<u>Professional, Scientific and Technical Services</u>	<u>1.8%</u>
<u>55</u>	<u>Management of Companies and Enterprises</u>	<u>2.2%</u>
<u>56</u>	<u>Administrative and Support and Waste Management</u>	<u>3.2%</u>
<u>61</u>	<u>Educational Services</u>	<u>1.4%</u>
<u>62</u>	<u>Health Care and Social Assistance</u>	<u>1.2%</u>

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<u>71</u>	<u>Arts, Entertainment and Recreation</u>	<u>2.1%</u>
<u>72</u>	<u>Accommodation and Food Services</u>	<u>1.3%</u>
<u>81</u>	<u>Other Services (except Public Administration)</u>	<u>1.4%</u>
<u>92</u>	<u>Public Administration</u>	<u>1.2%</u>
<u>99</u>	<u>Unclassified</u>	<u>1.7%</u>

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

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- 1) Heading of the Part: Claimant's Availability For Work, Ability To Work And Active Search For Work
- 2) Code Citation: 56 Ill. Adm. Code 2865
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2865.100	Amendment
2865.130	Amendment
- 4) Statutory Authority: 820 ILCS 405/409, 500, 1700 and 1701.
- 5) A Complete Description of the Subjects and Issues Involved: In order to provide the best possible referrals for employers, this proposed amendment to Part 2865 expands the reasons that an unemployment insurance applicant would be exempted from mandatory registration with the Employment Service.

As a result of a prior amendment to Section 500 of the Unemployment Insurance Act (P.A.92-396), recognizing that the federal Workforce Investment Act replaced the federal Job Training Partnership Act, this amendment to Part 2865 will also provide that the Director will issue blanket approval of training programs implemented pursuant to the federal Workforce Investment Act as she did with regard to programs under the federal Job Training Partnership Act, if both the training and the criteria for an individual's participation meet the statutory requirements. Participating in "approved training" exempts claimants from certain eligibility requirements.

- 6) Will these proposed amendments replace any emergency amendments currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives? This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

DEPARTMENT OF EMPLOYMENT SECURITY

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Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street – Room 937
Chicago IL 60603
312-793-4240

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].

The exemptions from the Employment Service registration requirement are intended to provide the best possible job seeker referrals to employers. Otherwise, these proposed amendments have no direct impact on small businesses, small municipalities and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80 and 1-85]. (They may indirectly impact some businesses by excepting claimants from some eligibility requirements.) These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as a small business, small municipality or not-for-profit corporation as part of any written comments that they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small business, small municipalities and not for profit corporations affected: The proposed rules have no direct affect on businesses. They may indirectly impact some businesses by excepting claimants from some eligibility requirements.
 - B) Reporting, bookkeeping or other procedures required for compliance:
None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2004

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

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER f: ELIGIBILITY FOR BENEFITS

PART 2865

CLAIMANT'S AVAILABILITY FOR WORK, ABILITY TO WORK
AND ACTIVE SEARCH FOR WORK

SUBPART A: GENERAL PROVISIONS

Section

- 2865.1 Definitions
- 2865.50 Union Registration In Satisfaction Of Active Search Provisions
- 2865.55 Requirements For Union Local Certification
- 2865.60 Procedures For Approval As A Certified Union

SUBPART B: REGULAR BENEFITS

Section

- 2865.100 Work Search Requirements For Regular Unemployment Insurance Benefits
- 2865.105 Able To Work
- 2865.110 Available For Work
- 2865.115 Actively Seeking Work
- 2865.120 Suitability Of Work – Labor Standards
- 2865.125 Availability For Part-Time Work Only
- 2865.130 Director's Approval Of Training
- 2865.135 Availability For Work And Active Search For Work: Attendance At Training Courses
- 2865.140 Regular Attendance In Approved Training
- 2865.145 Ineligibility To Receive Benefits For Failure To Participate In Reemployment Services
- 2865.150 Profiling/Referral To Reemployment Services

SUBPART C: EXTENDED BENEFITS

Section

- 2865.205 Applicability Of Rules For Eligibility For Regular Benefits
- 2865.210 Systematic And Sustained Search For Work
- 2865.215 When An Individual's Prospects For Finding Work Shall Be Deemed To Be Good

AUTHORITY: Implementing and authorized by Sections 409, 500, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/409, 500, 1700 and 1701].

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SOURCE: Adopted at 10 Ill. Reg. 11887, effective July 1, 1986; amended at 14 Ill. Reg. 18466, effective November 5, 1990; amended at 17 Ill. Reg. 17917, effective October 4, 1993; amended at 18 Ill. Reg. 4160, effective March 3, 1994; emergency amendment at 18 Ill. Reg. 17764, effective November 28, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 6555, effective April 28, 1995; amended at 28 Ill. Reg. _____, effective _____.

SUBPART B: REGULAR BENEFITS

Section 2865.100 Work Search Requirements For Regular Unemployment Insurance Benefits

- a) Unless otherwise instructed, the claimant must establish that he is able to work, available for work and actively seeking work during each week for which he is claiming benefits.
 - 1) The claimant must register in person at the Illinois ~~Job~~ **Employment** Service Office unless otherwise instructed by the local office for one of the following reasons:
 - A) The claimant's unemployment is due to a labor dispute at his last employing unit even if the claimant is not involved in the dispute;
 - B) The claimant's unemployment is due to a temporary lay-off not exceeding ~~ten~~ **four** weeks in duration;
 - C) The claimant is a member of a labor union whose placement service has been certified by the Agency under this Part;
 - D) The claimant is still attached to a regular job but he is only partially employed due to a temporary reduction in his hours;
 - E) The claimant is a seasonal worker who is between seasons and has a reasonable expectation of returning to the same job in the next succeeding season. For example, park, golf course and landscape workers would fall within this subsection (a)(1)(E) during a winter shutdown;
 - F) The claimant is an academic worker, such as a teacher or school administrator, or a non-academic employee, such as a food service worker or school bus driver, who is seeking work at an educational

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institution or for a company that contracts with an educational institution during a period between academic years or terms;

G) The claimant is a construction worker seeking construction work, whether or not he belongs to a union that operates a hiring hall defined in Section 2865.50;

H) The claimant is enrolled and participating in training, whether or not that training is approved under Section 500(C)(5) of the Act;

I) The claimant is a resident of a state that borders Illinois and has filed a claim in this State;

J) The Agency determines that, based on local labor market information, registration with the Illinois ~~Employment~~Job Service would not increase the likelihood of the claimant's return to work.

2) The claimant must show that he is conducting a thorough, active and reasonable search for appropriate work on his own by keeping records of what he is doing to find work, including:

A) The names and addresses of the employing units contacted and the names of the specific persons contacted, if possible;

B) The dates, methods and results of the contacts;

C) The types of work that the claimant has been seeking, including wages and hours requested or desired; and

D) Any other information regarding his work search efforts.

b) The claimant shall provide the written records required by this Section to the Agency whenever requested, pursuant to Section 2720.112(f) or 2720.115, or, in the event of a Claims Adjudicator's interview, an appeal or a hearing in which work search is an issue. Even if the claimant has been denied benefits, he must either file by telephone or complete and file the Claim Certification (BIS-653) every two weeks and meet the eligibility requirements of the Act for each week for which he expects payment upon reversal of that denial.

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

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Section 2865.130 Director's Approval of Training

~~Paragraph 5 of subsection C of~~ Section 500(C)(5) of the Act provides that *"an individual shall not be deemed unavailable for work or to have failed actively to seek work... with respect to any week, because he is enrolled in and is in regular attendance at a training course approved for him by the Director..."*

- a) The following criteria must be satisfied in order for a training course to be approved for an individual by the Director:
 - 1) The training course shall relate to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable work opportunities in the locality. This means that:
 - A) The training course must be vocational or provide the individual with skills essential for the performance of work in a specific occupation; and

Example: The Director shall not approve classes designed solely to provide an individual with a high school equivalency diploma since this would not enhance opportunities in a specific occupation. However, the Director shall approve courses of study ~~that~~~~which~~ include some purely academic courses if ~~that~~~~such~~ course work is secondary to the vocational aspects.
 - B) The course must be designed to facilitate the individual's reemployment in a reasonably expeditious manner; however, the Director shall not approve courses of study of more than one year in duration unless ~~the~~~~such~~ course is approved under 56 Ill. Adm. Code 2620; and
 - C) The course must focus on providing the individual with the competency necessary for securing entry level employment in the selected occupation; and

Example: The Director shall not approve training for the purpose of allowing an individual to improve his marketability, i.e., a bookkeeper who wishes to become an

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accountant. If there exists a reasonable job market for bookkeepers in the individual's locality, the Director will not approve training ~~that~~^{which} enhances the claimant's already marketable skills.

D) The course must consist of at least ~~12~~^{twelve} hours per week of instruction from a competent and reliable training agent. This minimum of ~~12~~^{twelve} hours of instruction must include contact between the student and the instructor. ~~The~~^{Such} contact could result from classroom training, laboratory instruction or tutoring.

2) ~~The~~^{Such} training course must be offered by a competent and reliable agency, educational institution or employing unit.

3) Work opportunities for which the individual is qualified by training and experience are limited or do not exist in the individual's locality.~~;~~^{and,}

Example: If the individual is a trained and certified nurse's aide, the Director shall not approve training to become a registered nurse if reasonable openings exist in the individual's locality for nurse's aides, even if the individual is dissatisfied with her present occupation.

4) The individual has the qualifications and aptitude to complete the course successfully.~~;~~^{and,}

~~Example: The Director shall not approve a course which requires the ability to read and write in English for an individual who is not fluent in English.~~

5) The enrollee is not a recipient nor eligible for subsistence payments or similar assistance under any public or private retraining program.

b) Notwithstanding subsection (a), a training course is approved for an individual by the Director for the purposes of ~~subsection C of~~ Section 500(C) of the Act if:

1) both the training course and the individual's participation in the training course are approved under Title I of the federal Workforce Investment Act (29 USC 2801-12945) by a One Stop Delivery System by the Department of Commerce and Community Affairs or by the Private Industry Council

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- ~~or a substate grantee of a Service Delivery Area within the State~~; and
- 2) the course is part of a program authorized pursuant to the Workforce Investment Job Training Partnership Act or other federal legislation establishing an employment and training program; and
 - 3) the criteria on the basis of which a One Stop Delivery System the Department of Commerce and Community Affairs, the Private Industry Council or the substate grantee approves the course under Title I of the Workforce Investment Act include criteria consistent with ~~clauses (2) and (3) of subparagraph (a) of paragraph 5 of subsection C of~~ Section 500(C)(5)(a)(2) and (3) of the Act; and
 - 4) the criteria on the basis of which a One Stop Delivery System the Department of Commerce and Community Affairs, the Private Industry Council or the substate grantee approves an individual's participation under Title I of the Workforce Investment Act in the course include criteria consistent with ~~clauses (1) and (2) of subparagraph (a) of paragraph 5 of subsection C of~~ Section 500(C)(5)(a)(1) and (2) of the Act;
 - 5) the course is not disapproved by reason of ~~clause (5) of subparagraph (a) of paragraph 5 of subsection C of~~ Section 500(C)(5)(a)(5) of the Act.

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

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- 1) Heading of the Part: Disqualifying Income And Reduced Benefits
- 2) Code Citation: 56 Ill. Adm. Code 2920
- 3) Section Number: 2920.40 Proposed Action: Amendment
- 4) Statutory Authority: 820 ILCS 405/234, 235, 239, 245, 401, 402, 500.1, 600, 605, 606, 610, 611, 1300, 1700 and 1701.
- 5) A Complete Description of the Subjects and Issues Involved: The recent enactment of the Illinois Worker Adjustment and Retraining Notification Act (P.A. 93-0915) necessitates amending this Section to conform to new Section 500.1 of the Unemployment Insurance Act.
- 6) Will this proposed amendment replace any emergency amendments currently in effects:
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain an incorporation? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective? This proposed amendment neither creates nor expands any state mandate on units of local government, school districts or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this Proposed Rulemaking: Interested persons may submit written comments, data, views or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street – Room 937
Chicago, IL 60603
312-793-4240

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

This proposed amendment has no direct impact on small businesses, small municipalities and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80 and 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as a small business, small municipality or not-for-profit corporation as part of any written comments that they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking has no direct effect on small businesses, small municipalities and not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: No reporting or bookkeeping is required for compliance.
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking is mandated by a recent amendment to the Unemployment Insurance Act (P.A. 93-0915) which is effective January 1, 2005 but was signed into law by Governor after the Agency's July Regulatory Agenda was published.

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

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER g: INELIGIBILITY FOR BENEFITSPART 2920
DISQUALIFYING INCOME AND REDUCED BENEFITS

Section	
2920.1	Definitions
2920.5	Ineligibility To Receive Benefits Due To Performing Full-Time Work Or Due To The Receipt Of Various Income Whose Sum Is Equal To Or Greater Than <u>Than</u> The Individual's Weekly Benefit Amount
2920.10	Reduction In Benefits Due To Receipt Of Vacation Pay, Holiday Pay, Retirement Pay, And Workers' Compensation Whose Sum Is Less Than The Individual's Weekly Benefit Amount
2920.15	Reduction In Benefits Due To Receipt Of Wages For Less Than Full-Time Work
2920.18	Voluntary Withholding For Federal Income Tax
2920.20	Reduced Benefits: Payment Of Dependents' Allowance Or Spouse's Allowance
2920.25	Payments Made During Shutdown For Inventory Or Vacation Purposes
2920.30	Payments Made In Connection With Separation Or Layoff As, Or In The Nature Of Vacation Pay, Vacation Pay Allowance Or As Pay In Lieu Of Vacation
2920.35	Holiday Pay
2920.40	Payments In Lieu Of Notice Of Separation Or Layoff
2920.45	Severance Pay
2920.48	Residual Payments
2920.50	Back Pay Awards
2920.55	Receipt Of Or Filing For Unemployment Insurance Benefits Under The Laws Of Another State, Canada, Or The United States
2920.60	Supplemental Unemployment Benefits (SUB Pay)
2920.65	Retirement Pay
2920.66	Payments To An Election Judge
2920.68	Payments By A Labor Union
2920.69	Jury Service
2920.70	Retirement Pay Considered Disqualifying Income
2920.75	Allocation Of Retirement Pay
2920.80	Miscellaneous Forms Of Retirement Pay
2920.85	Conformity With Federal Unemployment Tax Act

AUTHORITY: Implementing and authorized by Sections 234, 235, 239, 245, 401, 402, 500.1, 600, 605, 606, 610, 611, 1300, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS

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405/234, 235, 239, 245, 401, 402, 500.1, 600, 605, 606, 610, 611, 1300, 1700 and 1701].

SOURCE: Adopted at 11 Ill. Reg. 1853, effective January 7, 1987; amended at 12 Ill. Reg. 16066, effective September 23, 1988; amended at 13 Ill. Reg. 1773, effective January 27, 1989; amended at 13 Ill. Reg. 5936, effective April 18, 1989; emergency amendments at 13 Ill. Reg. 11899, effective July 1, 1989, for a maximum of 150 days; emergency amendments to 56 Ill. Adm. Code 2920.5 and 2920.75, expired November 28, 1989; amended at 13 Ill. Reg. 17402, effective October 30, 1989; amended at 15 Ill. Reg. 180, effective December 28, 1990; amended at 15 Ill. Reg. 11416, effective July 30, 1991; amended at 18 Ill. Reg. 4166, effective March 3, 1994; amended at 21 Ill. Reg. 567, effective January 1, 1997; emergency amendment at 25 Ill. Reg. 10226, effective August 7, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 15415, effective November 15, 2001; amended at 28 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS**Section 2920.40 Payments In Lieu Of Notice Of Separation Or Layoff**

- a) Amounts paid or payable by an employing unit to an individual in lieu of notice of separation or layoff, except for payments related to an employer's violation of the Illinois Worker Adjustment and Retraining Notification Act or the federal Worker Adjustment and Retraining Notification Act, shall be treated as wages with respect to the period of notice, ~~—If the amounts exceed the individual's weekly benefit amount, such individual shall be ineligible to receive benefits with respect to such period~~ provided that the following conditions are met:

- 1) There must be an employment agreement, ~~a statutory requirement~~ or a uniformly applied company policy ~~that~~**which** requires that the employing unit give the employee a definite period of notice before a layoff or separation;

~~Example: Pursuant to the federal Worker Adjustment and Retraining Notification Act (P.L. 100-379), certain employers are required, under specified conditions, to provide at least 60 days notice of a mass layoff or plant closing. If an employer fails to provide the required notice, it may be required to compensate its employees for the number of days for which such notice was not given. Such compensation constitutes payments in lieu of notice of separation or layoff, thus rendering the workers ineligible during the period with respect to which the required notice was not given. The payment of such compensation does not relieve the employer of its responsibilities or from potential liability under the federal Worker~~

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Adjustment and Retraining Notification Act.

- 2) ~~The~~the employee must be laid off or separated without the required notice; and;
- 3) The employing unit must pay the employee a sum equal to his regular wages, or an amount computed in accordance with a formula ~~which is~~ based on the employee's past earnings, for the required period of the notice.

If the amounts treated as wages in lieu of notice with respect to a week pursuant to this subsection (a) exceed the individual's weekly benefit amount, the individual shall be ineligible to receive benefits with respect to that week.

- b) Amounts paid or payable by an employing unit to an individual in lieu of notice of separation or layoff ~~that~~which do not satisfy the conditions set forth in subsection (a) shall be treated as severance pay described in Section 2920.45 except for unless these payments ~~that~~ qualify as vacation pay in connection with a layoff or separation, as provided in Section 2920.30 and are not related to an employer's violation of the Illinois Worker Adjustment and Retraining Notification Act or the federal Worker Adjustment and Retraining Notification Act.

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

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- 1) Heading of the Part: HIV/AIDS Confidentiality and Testing Code
- 2) Code Citation: 77 Ill. Adm. Code 697
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
697.20	Amendment
697.30	Amendment
697.100	Amendment
- 4) Statutory Authority: AIDS Confidentiality Act [410 ILCS 305]; AIDS Registry Act [410 ILCS 310]; Communicable Disease Prevention Act [410 ILCS 315]; and Civil Administrative Code of Illinois [20 ILCS 2310-10, 231-315, 2310.325, 2310-580]
- 5) Effective date of rulemaking: October 8, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: November 7, 2003; 27 Ill. Reg. 17046
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the First Notice or public comment period:

In Section 697.20 (Definitions), deleted definition of "confirmatory test" and "medically indicated".

In Section 697.20 (Definitions), changed the definition of "Rapid HIV Antibody Test" from "means an approved screening test, with a sensitivity of at least 99.6% and a specificity of 100% to detect antibodies to HIV that can be collected and processed within a short interval of time (e.g., approximately 10 – 60 minutes)" to "means an FDA approved screening test to detect antibodies to HIV that can be collected and processed within a short interval of time (under 60 minutes)".

In Section 697.30 (Incorporated Materials), added the following:

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- "8) Revised Guidelines for HIV Counseling, Testing and Referral, Centers for Disease Control and Prevention (CDC), Morbidity and Mortality Weekly Report (MMWR), Vol. 50, No. RR-19, November 9, 2001, Atlanta, Georgia 30333.
- 9) Revised Recommendations for HIV Screening of Pregnant Women, Centers for Disease Control and Prevention (CDC), Morbidity and Mortality Weekly Report (MMWR), Vo. 50, No. RR-19, November 19, 2001, Atlanta, Georgia 30333.
- 10) Advancing HIV Prevention: New Strategies for a Changing Epidemic – United States 2003, Centers for Disease Control and Prevention (CDC), Morbidity and Mortality Weekly Report (MMWR), Vol. 52, No. 15, April 18, 2003, Atlanta, Georgia 30333."

In Section 697.100 (Approved HIV Tests and Testing Procedures), "or the Department" and "by the Department" were stricken in subsection (a).

In Section 697.100(a)(1), "(screening)" was stricken.

In Section 697.100(a)(2), "screening" was deleted, and in subsection (a)(3), "(confirmatory)" was stricken.

In Section 697.100(a)(4), "(confirmatory)" was stricken.

Existing Section 697.100(a)(5) was stricken except for the subsection (5) label.

In Section 697.100(a)(5), "(confirmatory)" was stricken.

In Section 697.100(a)(6), "Polymerase chain reaction (PCR)" and "(confirmatory)" were stricken, and "Nucleic acid" was added.

The following changes were requested by JCAR:

In the Authority Note, "55, 55.11, 55.41 and 55.45" were changed to "2310-10, 2310-315, 2310-325 and 2310-580".

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In Section 697.20 (Definitions), "'Mortality' or 'HIV infection'" was changed to "'HIV Infection or Mortality'".

In Section 697.20, in the definition of "Legally Authorized Representative", "twelve (12)" was stricken and "12" was added.

In Section 697.20, in the definition of "Rapid HIV Antibody Test", the second "to", in the first line was deleted.

In Section 697.100 (Approved HIV Tests and Testing Procedures), in subsection (a), "which" was stricken and "that" was added in the first line and, in subsection (a)(5), the label was corrected.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Public Act 93-482 amended the AIDS Confidentiality Act [410 ILCS 305] to require the Department of Public Aid to adopt rules to allow for the implementation of HIV/AIDS rapid testing. Two screening tests that can provide a preliminary test result within a few hours have been approved by the federal Food and Drug Administration. The US Public Health Service has issued guidelines recommending the administration of anti-retroviral treatment during pregnancy or, at a minimum, during labor and delivery to prevent perinatal transmission of HIV from infected mother to child. Additional guidelines recommend that prophylactic anti-retroviral treatment be administered as soon as possible following occupational exposure to HIV. These amendments add references to the guidelines, update the list of approved tests to conform to currently recommended practices, and add provisions for rapid testing in labor and delivery settings and occupational exposure.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Susan Meister, Rules Coordinator
Illinois Department of Public Health
Division of Legal Services
535 West Jefferson, Fifth Floor

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Springfield, Illinois 62761

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER d: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 697
HIV/AIDS CONFIDENTIALITY AND TESTING CODE

SUBPART A: GENERAL PROVISIONS

Section	
697.10	Applicability
697.20	Definitions
697.30	Incorporated Materials
697.40	Administrative Hearings

SUBPART B: HIV TESTING

Section	
697.100	Approved HIV Tests and Testing Procedures
697.110	HIV Pre-Test Information
697.120	Written Informed Consent
697.130	Anonymous Testing
697.140	Nondisclosure of the Identity of a Person Tested or Test Results
697.150	Marriage License Testing Requirements (Repealed)
697.160	HIV Testing for Insurance Purposes
697.170	Enforcement of the AIDS Confidentiality Act
697.180	HIV Testing for Blood and Human Tissue Donations

SUBPART C: HIV/AIDS REGISTRY SYSTEM

Section	
697.200	HIV/AIDS Registry System
697.210	Reporting Requirements
697.220	Release of HIV/AIDS Registry Information

SUBPART D: HIV COUNSELING AND TESTING CENTERS

Section	
697.300	HIV Counseling and Testing Centers

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SUBPART E: MISCELLANEOUS PROVISIONS

Section

- 697.400 Notification of School Principals
697.410 Guidelines for the Management of Chronic Infectious Diseases in School Children
697.420 Testing, Treatment or Counseling of Minors

697.APPENDIX A Sample HIV Testing Forms

697.ILLUSTRATION A Sample Written Informed Consent Form

697.ILLUSTRATION B Sample Marriage License Testing Certificate (Repealed)

697.APPENDIX B Statutory and Regulatory References to AIDS (Repealed)

AUTHORITY: Implementing and authorized by the AIDS Confidentiality Act [410 ILCS 305]; the AIDS Registry Act [410 ILCS 310]; the Communicable Disease Prevention Act [410 ILCS 315]; and Sections 2310-10, 2310-315, 2310-325 and 2310-580 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-10, 2310-315, 2310.325 and 2310-580].

SOURCE: Emergency rules adopted at 12 Ill. Reg. 1601, effective January 1, 1988, for a maximum of 150 days; adopted at 12 Ill. Reg. 9952, effective May 27, 1988; amended at 13 Ill. Reg. 11544, effective July 1, 1989; amended at 15 Ill. Reg. 11646, effective August 15, 1991; emergency amendment at 17 Ill. Reg. 1204, effective January 7, 1993, for a maximum of 150 days; emergency expired on June 7, 1993; amended at 17 Ill. Reg. 15899, effective September 20, 1993; amended at 19 Ill. Reg. 1117, effective January 20, 1995; amended at 22 Ill. Reg. 21994, effective December 9, 1998; amended at 28 Ill. Reg. 13905, effective October 8, 2004.

SUBPART A: GENERAL PROVISIONS

Section 697.20 Definitions

The following are definitions of terms used in this Part:

"Act" or "AIDS Confidentiality Act" means the AIDS Confidentiality Act [410 ILCS 305].

"AIDS" means acquired immunodeficiency syndrome, as defined by the Centers for Disease Control or the National Institutes of Health. (Section 3(a) of the AIDS Registry Act) Similar definitions appear in the Act. Current definition can be found in 1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults, Centers

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for Disease Control and Prevention (CDC). Morbidity and Mortality Weekly Report (MMWR), December 18, 1992; vol. 41, no. RR-17; and in 1994 Revised Classification System for HIV Infection for Children Less Than 13 Years of Age. Morbidity and Mortality Weekly Report (MMWR), vol. 43 RR-12.

"AIDS Registry Act" means the AIDS Registry Act [410 ILCS 310].

"Blood Bank" means any facility or location at which blood or plasma are procured, furnished, donated, processed, stored or distributed.

"Department" means the Illinois Department of Public Health. (Section 3(a) of the AIDS Confidentiality Act)

"Designated Agency" means a health care organization under a service agreement with the Department to function in the capacity of a Local Health Authority for the purposes of this Part, in a jurisdiction not covered by a Local Health Authority.

"Health Care Provider" means any physician, nurse, paramedic, psychologist or other person providing medical, nursing, psychological, or other health care services of any kind. (Section 3(f) of the AIDS Confidentiality Act)

"Health Facility" means a hospital, nursing home, blood bank, blood center, sperm bank, or other health care institution, including any "Health Facility" as that term is defined in the Illinois Health Facilities Authority Act. (Section 3(e) of the AIDS Confidentiality Act)

"HIV" means the human immunodeficiency virus. (Section 3(c) of the AIDS Confidentiality Act)

"HIV Infection" or "Mortality" or "~~HIV infection~~" means infected with HIV, as evidenced by a confirmed laboratory test for antibodies to HIV as specified in Section 697.100, viral culture or positive antigen test or a clinical diagnosis of AIDS.

"Laboratory" means any facility or location at which tests are performed to determine the presence of antibodies to HIV, other than blood banks.

"Legally Authorized Representative" means an individual who is authorized to consent to HIV testing and/or disclosure of HIV test results for an individual who

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is:

Under the age of ~~12~~^{twelve (12)},

Deceased,

Declared incompetent by a court of law, or

Otherwise not competent to consent (for reasons other than age, such as the apparent inability to understand or communicate with the health care provider) as determined by the health care provider seeking such consent.

The following individuals shall be authorized to consent, in the stated order of priority:

For a living or deceased child under the age of 18:

Parent, legal guardian or other court-appointed personal representative,

Adult next-of-kin.

For a living or deceased adult age 18 or over:

Agent authorized by durable power of attorney for health care,

Legal guardian or other court-appointed personal representative,

Spouse,

Adult children,

Parent,

Adult next-of-kin.

"Local Health Authority" means *the full-time official health Department or Board of Health, having jurisdiction over a particular area.* (Illinois Sexually

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Transmissible Disease Control Act. [410 ILCS 325])

"Person" includes any natural person, partnership, association, joint venture, trust, governmental entity, public or private corporation, health facility or other legal entity. (Section 3(h) of the AIDS Confidentiality Act)

"Physician" means a physician licensed to practice medicine under the Medical Practice Act of 1987 [225 ILCS 60].

"Rapid HIV Antibody Test" means an FDA approved screening test to detect antibodies to HIV that can be collected and processed within a short interval of time (under 60 minutes).

"Test" or "HIV Test" means a test to determine the presence of the antibody or antigen to HIV, or of HIV infection. (Section 3(g) of the AIDS Confidentiality Act)

"Written Informed Consent" means an agreement in writing executed by the subject of a test or the subject's legally authorized representative without undue inducement such as any element of force, fraud, deceit, duress or other form of constraint or coercion (See Appendix A, Illustration A), which entails at least the following:

A fair explanation of the test, including its purpose, potential uses, limitations and the meaning of its results; and

A fair explanation of the procedures to be followed, including the voluntary nature of the test, the right to withdraw consent to the testing process at any time prior to the completion of the laboratory tests, the right to anonymity to the extent provided by law with respect to participation in the test and disclosure of test results, and the right to confidential treatment of information identifying the subject of the test and the results of the test, to the extent provided by law. (Section 3(d) of the AIDS Confidentiality Act)

(Source: Amended at 28 Ill. Reg. 13905, effective October 8, 2004)

Section 697.30 Incorporated Materials

The following materials are incorporated or referenced in this Part:

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- a) Illinois Statutes
 - 1) AIDS Confidentiality Act [410 ILCS 305],
 - 2) AIDS Registry Act [410 ILCS 310],
 - 3) The Communicable Disease Prevention [410 ILCS 315],
 - 4) The Unified Code of Corrections [730 ILCS 5],
 - 5) The Medical Patient Rights Act [410 ILCS 50],
 - 6) The Civil Administrative Code of Illinois [20 ILCS 2310/55 to 55.45].

- b) Illinois Rules
 - 1) Control of Communicable Disease Code (77 Ill. Adm. Code 690) (see in particular Section 697.140(a)(4) of this Part),
 - 2) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) (see in particular Sections 697.140(a)(4) and 697.210(a) of this Part),
 - 3) Illinois Clinical Laboratories Code (77 Ill. Adm. Code 450) (see in particular Section 697.180(c) and (e)),
 - 4) Blood Labeling Code (77 Ill. Adm. Code 460) (see in particular Section 697.180(c) and (e) of this Part),
 - 5) Sperm Bank and Tissue Bank Code (77 Ill. Adm. Code 470) (see in particular Section 697.180(c) and (e)),
 - 6) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) (see in particular Section 697.40 of this Part),
 - 7) Illinois Blood Bank Code (77 Ill. Adm. Code 490).

- c) Federal Rules
 - 42 CFR 2a.4(a)-(j), 2a.6(a)-(b), and 2a.7(a)-(b).

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- d) Other Codes, Guidelines and Standards
- 1) 1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults, Centers for Disease Control and Prevention (CDC). Morbidity and Mortality Weekly Report (MMWR), December 18, 1992; vol. 41, no. RR-17.
 - 2) 1994 Revised Classification System for HIV Infection for Children Less Than 13 Years of Age. Centers for Disease Control and Prevention (CDC). Morbidity and Mortality Weekly Report (MMWR), vol. 43 (RR-12).
 - 3) The "Adult HIV/AIDS Confidential Case Report", as modified by the Department, a form prepared by the Centers for Disease Control and Prevention, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333, Office of Management and Budget No. 0920-0009- (1993). (See Section 697.210.)
 - 4) Guidelines for the Management of Chronic Infectious Diseases in School Children. (See Section 697.410.)
 - 5) 1993 Revised Classification Scheme for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults, Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report (MMWR). Vol. 41, No. RR-17, December 18, 1992, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333.
 - 6) [Recommendations for Use of Antiretroviral Drugs in Pregnant HIV-1-Infected Women for Maternal Health and Interventions to Reduce Perinatal HIV-1 Transmission in the United States, Public Health Service Task Force, U.S. Department of Health and Human Services, Atlanta, Georgia 30333 \(August 30, 2002\).](#)
 - 7) [Updated U.S. Public Health Services Guidelines for the Management of Occupational Exposures to HBV, HCV, and HIV and Recommendations for Postexposure Prophylaxis, Centers for Disease Control and Prevention](#)

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[\(CDC\), Morbidity and Mortality Weekly Report \(MMWR\), Vol. 50, No. RR-11, June 29, 2001, Atlanta, Georgia 30333.](#)

- 8) [Revised Guidelines for HIV Counseling, Testing and Referral, Centers for Disease Control and Prevention \(CDC\), Morbidity and Mortality Weekly Report \(MMWR\), Vol. 50, No. RR-19, November 9, 2001, Atlanta, Georgia 30333.](#)
- 9) [Revised Recommendations for HIV Screening of Pregnant Women, Centers for Disease Control and Prevention \(CDC\), Morbidity and Mortality Weekly Report \(MMWR\), Vol. 50, No. RR-19, November 9, 2001, Atlanta, Georgia 30333.](#)
- 10) [Advancing HIV Prevention: New Strategies for a Changing Epidemic – United States 2003, Centers for Disease Control and Prevention \(CDC\), Morbidity and Mortality Weekly Report \(MMWR\), Vol. 52, No. 15, April 18, 2003, Atlanta, Georgia 30333.](#)

- e) All citations to federal regulations in this Part concern the specified regulations in the 1994 Code of Federal Regulations, unless another date is specified.
- f) All incorporations by reference of federal regulations or standards and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 28 Ill. Reg. 13905, effective October 8, 2004)

SUBPART B: HIV TESTING

Section 697.100 Approved HIV Tests and Testing Procedures

- a) Any person, laboratory, blood bank, hospital or other entity ~~that~~^{which} conducts laboratory tests to detect the evidence of infection with HIV shall use tests approved by the United States Food and Drug Administration ~~or the Department.~~ The following tests are currently approved for such purpose ~~by the Department:~~
 - 1) Enzyme-linked Immunosorbent Assay (ELISA) ~~(screening);~~
 - 2) [Rapid HIV antibody test;](#)

DEPARTMENT OF PUBLIC HEALTH

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- 32) Western blot assay ~~(confirmatory)~~;
 - 43) Indirect fluorescent antibody test (IFA) ~~(confirmatory)~~;
 - 4) ~~Recombinant antigen HIV-1 latex agglutination test (screening and confirmatory)~~;
 - 5) Radioimmune precipitation assay (RIPA) ~~(confirmatory)~~;
 - 6) Nucleic acid ~~Polymerase chain reaction (PCR)~~ test ~~(confirmatory)~~.
- b) Testing for the presence of antibodies to the HIV virus shall consist of the following:
- 1) Every sample shall be tested with an approved screening test. If found to be reactive (according to the package insert – product circular), then a second screening test, in duplicate, must be conducted. If the second screening test is also found to be reactive, then a confirmatory test must be conducted.
 - 2) Every sample found to be repeatedly reactive using an approved screening test shall be tested using a confirmatory test. If the sample is found to be positive according to the package insert (product circular) using the Western blot assay, or reactive according to the manufacturer's recommendations using the IFA test, then the sample shall be considered to indicate the presence of antibodies to the HIV or to be positive.
 - 3) In the event the confirmatory test is found to be indeterminate, then the specimen should be tested with another confirmatory supplemental test ~~as listed above~~. If the sample is found to be positive according to the package insert (product circular) or manufacturer's recommendations for that test, then the sample shall be considered to indicate the presence of antibodies to HIV or to be positive.
 - 4) All phases of testing required by this Section shall be completed before HIV test results are released to the physician or other individuals authorized to receive the results as described and limited in Section 697.140, except when immediate medical treatment is necessary to prevent further transmission of HIV as follows:-

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- A) in labor and delivery settings, as provided by the guidelines of the U.S. Public Health Service for reducing perinatal HIV transmission in the United States, or
- B) in instances of occupational exposure, as provided by Section 697.140(a)(8) and (9).
- 5) Before testing is conducted under subsection (b)(4)(A) or (B), the test subject shall have been counseled and shall have provided specific written informed consent to be tested and to receive a preliminary test result in accordance with Sections 697.110 and 697.120.
- 6) In such cases as the exceptions described in subsections (b)(4)(A) and (B), a preliminary (unconfirmed) test result may be released to persons specified in Section 697.140(a)(1), (2), (3), (8), or (9).

(Source: Amended at 28 Ill. Reg. 13905, effective October 8, 2004)

ILLINOIS STATE TREASURER

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: General Administrative Provisions
- 2) Code Citation: 74 Ill. Adm. Code 760
- 3) Section Number: 760.94 Emergency Action:
Amendment
- 4) Statutory Authority: Authorized by Section 26 of the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025/26].
- 5) Effective Date of Amendment October 5, 2004
- 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: This emergency amendment will expire when the proposed amendment is adopted.
- 7) Date Filed with the Index Department: October 5, 2004
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This amendment furthers the purpose of the Uniform Disposition of Unclaimed Property Act, which is to identify unclaimed property and return it to its rightful owners. When an insurance company demutualizes, it converts from a mutually owned company to a shareholder-owned company, and the securities and commodities are sent to the Treasurer, sometimes before they have been "presumed abandoned." Current rules require the Treasurer to sell securities and commodities not later than one year from the date of receipt. As a result, an influx of shares may become available on the market for purchase before the five-year abandoned period has passed, and, possibly, before the original owners had an opportunity to recover their property in its original form directly from the insurance company. If a large number of shares becomes available on the market all at once, then the price of the stock may go down. Therefore, it was concluded that action is necessary at this time to allow the Treasurer to contract with insurance companies to hold the property until after the abandonment period passes so as to protect the value of the stock by not being forced to sell it all at once and so that the original owners will have ample opportunity to recover their property in its original form.
- 10) A Complete Description of the Subjects and Issues Involved: This amendment modifies the Receipt and Sales of Securities and Commodities criteria set forth in Section 760.94. Under the Uniform Disposition of Unclaimed Property Act, the Treasurer distributes

ILLINOIS STATE TREASURER

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unclaimed property in her custody to its rightful owners. Under existing administrative rules, securities and commodities received by the Treasurer as unclaimed property must be sold as soon as practical, and not later than one year from the date of receipt, subject to two conditions: (1) securities and commodities shall not be sold prior to 90 calendar days subsequent to the date of the first publication of the owner's name and address, unless the Treasurer determines that it would be in the best interest of the owner; and (2) securities and commodities eligible for sale shall not be sold when a claim has been filed with the Treasurer by a potential owner, heir or agent, request sale, or unless the claim is disapproved. When an insurance company demutualizes, it converts from a mutually owned company to a shareholder-owned company. In the course of a demutualization, an insurance company will sometimes send securities and commodities to the Treasurer before they are "presumed abandoned." Because current rules require the Treasurer to sell them not later than one-year from the date of receipt, an influx of shares may become available on the market for purchases, before the five-year abandoned period has passed and possibly before the original owners had an opportunity to recover their property in its original form directly from the insurance company. If a large number of shares become available on the market all at once, then the price of the stock may go down. This amendment allows the Treasurer to contract with the insurance company to hold property until a year after the abandonment period passes, so as to protect the value of the stock by not being forced to sell all at once and so that the original owners will have ample opportunity to recover their property in its original form.

- 11) Are there any proposed amendments to this Part Pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding this amendment shall be directed to:

Daniel Yabut
The Honorable Judy Baar Topinka
Office of the Illinois State Treasurer
100 W. Randolph, Suite 15-600
Chicago, IL 60601
(312) 814-8950

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

ILLINOIS STATE TREASURER

NOTICE OF EMERGENCY AMENDMENT

TITLE 74: PUBLIC FINANCE

CHAPTER V: TREASURER

PART 760

UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

Section

760.10	Definitions
760.15	Presumption of Abandonment
760.20	Negative Reports
760.21	Reporting
760.22	Format/Form of Reports
760.24	Incomplete/Inaccurate Report or Remittance
760.25	Filing Extensions
760.30	Safe Deposit Boxes
760.35	Due Diligence
760.40	Cost of Mailing
760.50	Nominee and Street Name Property
760.60	Lawful Charges
760.70	Discontinuance of Interest or Dividends
760.80	Statute of Limitations (Repealed)
760.85	Situs
760.89	Fees
760.90	Examination of Property Holders
760.92	Remittance of Securities and Commodities
760.94	Receipt and Sale of Securities and Commodities
<u>EMERGENCY</u>	
760.95	Examination Gap
760.100	Claims
760.110	Hearings on Claims
760.115	Non-Claim Hearings

AUTHORITY: Implementing and authorized by Section 26 of the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025/26].

SOURCE: Filed November 20, 1977; emergency amendment at 3 Ill. Reg. 39, p. 225, effective September 14, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 48, p. 153, effective November 20, 1979; rules repealed, new rules adopted and codified at 8 Ill. Reg. 1464, effective January 18, 1984; amended at 15 Ill. Reg. 8555, effective May 24, 1991; amended at 17 Ill. Reg. 123, effective December 21, 1992; emergency amendment at 17 Ill. Reg. 6321, effective April 6,

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1993; amended at 17 Ill. Reg. 9893, effective June 21, 1993; amended at 18 Ill. Reg. 18001, effective December 12, 1994; amended at 20 Ill. Reg. 8325, effective June 8, 1996; recodified from the Department of Financial Institutions (38 Ill. Adm. Code 180) to the State Treasurer, pursuant to PA 91-16, at 26 Ill. Reg. 8164; emergency amendment at 28 Ill. Reg. 13919, effective October 5, 2004, for a maximum of 150 days.

Section 760.94 Receipt and Sale of Securities and Commodities**EMERGENCY**

- a) Securities and commodities received by the State Treasurer as unclaimed property shall be sold as soon as practical and not later than one year from the date of receipt subject to the following:
- 1) Securities and commodities shall not be sold prior to ~~ninety (90)~~ calendar days subsequent to the date of the first publication of the owner's ~~names~~~~name(s)~~ and ~~addresses~~~~address(es)~~, pursuant to Section 12 of the Act; unless the Treasurer or the Treasurer's authorized representative determines it would be in the best interests of the owner (such as: responding to a tender offer, bankruptcy filing, liquidation, adverse or favorable market conditions) for the sale to occur prior to the expiration of the ~~ninety (90)~~ calendar day period.
 - 2) Securities and commodities eligible for sale will not be sold when a claim has been filed with the Treasurer by a potential owner, heir or agent. However, upon approval of a claim, the owner, heir or agent may request the Treasurer to dispose of the securities or commodities by sale and remit the net proceeds to the owner, heir or agent, or upon disapproval of the claim, the Treasurer shall by sale dispose of the securities or commodities.
 - 3) The Treasurer may, at her or his discretion, enter into agreements that allow the securities and commodities to be sold not later than one year from the date the securities or commodities are presumed abandoned under the Act.
- b) Securities and commodities which become reportable abandoned property under the Act, when remitted to the Treasurer, must include all interest, ~~dividends~~~~dividend(s)~~, stock ~~splits~~~~split(s)~~, if any, warrants, or other rights even though said interest, ~~dividends~~~~dividend(s)~~, stock ~~splits~~~~split(s)~~, warrants, or other rights standing alone would not be reportable abandoned property.

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NOTICE OF EMERGENCY AMENDMENT

- c) Interest, ~~dividends~~dividend(s), stock ~~split~~split(s), warrants, or other rights which become reportable abandoned property under the Act, must, when remitted to the Treasurer, include the underlying security or commodity giving rise to the interest, ~~dividends~~dividend(s), ~~or stock split~~split(s), warrants, or other rights.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 13919, effective October 5, 2004, for a maximum of 150 days)

ILLINOIS STATE BOARD OF ELECTIONS

NOTICE OF CORRECTION TO PROPOSED RULEMAKING

- 1) Heading of the Part: Approval of Voting Systems
- 2) Code Citation: 26 Ill. Adm. Code 204
- 3) The notice of proposed rulemaking being corrected appears at: 28 Ill. Reg.13287; October 8, 2004
- 4) The information being corrected is as follows: Item number 11 on the notice page for the rulemaking above that appeared in the *Illinois Register* on October 8, 2004 states that in Section 204.140, the 10% limit on the number of precincts subject to a special test is being repealed as the State Board of Elections is no longer under such a limitation; however, in Section 204.140(b), in the first sentence of the rulemaking text, SBE failed to strike the words "not more than 10% of". SBE regrets this error and any confusion it may have caused. The following text shows how subsection (b) of this section should have appeared.

- b) The State Board of Elections may select, on a rotation basis ~~not more than 10% of~~ the election jurisdictions in which to order a special test of the automatic tabulating equipment and program prior to any regular election. ~~In addition, provided, that~~ the Board may order a special test in any election jurisdiction where, during the preceding ~~12~~twelve months, computer programming errors or other errors in the use of electronic voting systems resulted in vote tabulation errors. Not more than 35 days nor less than 30 days prior to any election, the State Board of Elections shall provide written notice of intent to conduct a test. ~~The, the~~ selected jurisdictions shall forward to the principal office of the State Board of Elections a copy of all specimen ballots. The ~~Board's State Board of Elections'~~tests shall be conducted and completed not less than 2 days prior to the public test. ~~The Board will provide utilizing~~testing materials, ~~will supervise the test, and will cover supplied by the Board and under the supervision of te Board, and the~~reasonable ~~cost~~seost of computer time required to conduct the special test.

In accordance with the Illinois Administrative Procedure Act, the First Notice period for this corrected rulemaking begins on the date of this issue of the *Illinois Register*.

CAPITAL DEVELOPMENT BOARD

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Capital Development Board Hearing Procedures
- 2) Code Citation: 71 Ill. Adm. Code 100
- 3) The Notice of proposed amendments being corrected appeared at 28 Ill. Reg. 13138, dated October 1, 2004.
- 4) The information being corrected is as follows: When the above rulemaking was published on October 1, 2004, the notice page failed to include a complete description of the subjects and issues involved in the proposal. This notice corrects that oversight. The proposed amendments for "Hearing Procedures" (71 Ill. Adm. Code 100) revise the Board's hearing rules. The rulemaking specifies that contested cases may include prequalification suspensions, defines terms used throughout the Part, and revises filing procedures. The amendments also cover transcript availability and records retention. In addition, an administrative law judge (ALJ), rather than a hearing officer, will be appointed as soon as possible after CDB grants a petition for hearing. The powers and duties of the ALJ are provided, including regulating the course of the hearing. The rules of evidence and privilege, as applied in civil cases in Illinois circuit courts, will apply. Individuals and sole proprietors are allowed to represent themselves before the hearing; other businesses are required to be represented by an attorney. Within 15 days after the ALJ is appointed, the Board must file a response to the hearing petition and, within 10 days after receiving the Board's response, the ALJ must notify all parties that a conference will be scheduled within another 10 days. The ALJ will render a written proposal for decision within 30 days (currently 15 days) after the hearing unless, based on the volume of evidence to be considered, more time is required. The ALJ will respond to petitions for reconsideration (rather than the CDB executive director) by filing a final recommendation with the parties and the director. If no petition for reconsideration is filed, the executive director will issue a final and binding decision within 30 days after receiving the ALJ's proposal. Small businesses that request a hearing before the Board are affected by this rulemaking.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 5, 2004 through October 12, 2004 and have been scheduled for review by the Committee at its November 9, 2004 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
11/19/04	<u>Illinois Racing Board</u> , Drivers, Trainers, and Agents (11 Ill. Adm. Code 1317)	8/6/04 28 Ill. Reg. 11073	11/9/04
11/19/04	<u>Department of Transportation</u> , Oversize and Overweight Permit Movements on State Highways (92 Ill. Adm. Code 554)	8/20/04 28 Ill. Reg. 11998	11/9/04
11/20/04	<u>Department of Financial and Professional Regulation-Division of Professional Regulation</u> , Illinois Physical Therapy Act (68 Ill. Adm. Code 1340)	4/23/04 28 Ill. Reg. 6394	11/9/04
11/20/04	<u>Department of Financial and Professional Regulation-Division of Professional Regulation</u> , Optometric Practice Act of 1987 (68 Ill. Adm. Code 1320)	8/13/04 28 Ill. Reg. 11479	11/9/04
11/25/04	<u>Department of Public Aid</u> , Medical Payment (89 Ill. Adm. Code 140)	7/16/04 28 Ill. Reg. 9923	11/9/04
11/25/04	<u>Department of Public Aid</u> , Child Support Enforcement (89 Ill. Adm. Code 160)	7/16/04 28 Ill. Reg. 9933	11/9/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

11/25/04	<u>Illinois Racing Board</u> , Medication (11 Ill. Adm. Code 603)	5/28/04 28 Ill. Reg. 7533	11/9/04
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DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the Third Quarter of 2004. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

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

CDF Exemption	Hotel Operators' Tax
Cigarette Tax	Interstate Commerce
Claims for Credit	Leasing
Computer Software	Local Taxes
Construction Contractors	Manufacturer's Purchase Credit
Delivery Charges	Manufacturing Machinery & Equipment
Drugs	Medical Appliances
Enterprise Zones	Miscellaneous
Food	Nexus
Food, Drugs & Medical Appliances	Public Utility Taxes
Gross Receipts	

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Repairs	Tire User Fee
Sale for Resale	Tobacco Products Tax Act
Sale of Service	Trade-Ins
Service Occupation Tax	Use Tax
Tax Collection	
Telecommunications Excise Tax	

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

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

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

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

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

CDF EXEMPTION

ST 04-0159-GIL 09/14/2004 Components or parts added to a motor vehicle after it has been purchased do not qualify for the CDF Sales Tax Exemption. See the Department's proposed rules regarding the CDF Sales Tax Exemption, 86 Ill. Adm. Code 130.341. (This is a GIL.)

CIGARETTE TAX

ST 04-0117-GIL 08/03/2004 A tax is imposed upon any person who exercises the privilege of engaging in business as a retailer of cigarettes in this State under the Cigarette Tax Act. See 86 Ill. Adm. Code 440.10. (This is a GIL.)

CLAIMS FOR CREDIT

ST 04-0107-GIL 07/08/2004 Tax is deemed to be erroneously paid by a retailer when the manufacturer of a motor vehicle sold by the retailer accepts the return of that automobile and refunds to the purchaser the purchase price of the vehicle, as provided in Section 3 of the New Vehicle Buyer Protection Act, 815 ILCS 380/3. See Ill. Adm. Code 130.1501. (This is a GIL.)

ST 04-0116-GIL 08/03/2004 This letter discusses claims for credit for automobiles returned under the New Vehicle Buyer Protection Act. See Ill. Adm. Code 130.1501. (This is a GIL.)

ST 04-0184-GIL 09/22/2004 A retailer may file a claim for credit memorandum for a motor vehicle returned under the New Vehicle Buyer Protection Act. See 86 Ill. Adm. Code 130.1501. (This is a GIL.)

COMPUTER SOFTWARE

ST 04-0106-GIL 07/07/2004 If transactions for the Licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software nor the subsequent software updates will be subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 04-0109-GIL 07/08/2004 Licensing of computer software meeting all of the criteria in subsection (a)(1) of Section 130.1935, will not be subject to Retailers' Occupation Tax and neither the transfer of the software nor the subsequent software updates will be subject to Retailers' Occupation Tax. See Ill. Adm. Code 130.1935(a)(1). (This is a GIL.)
- ST 04-0119-GIL 08/04/2004 Charges for updates of canned software are fully taxable. See 86 Ill. Adm. Code Section 130.1935. (This is a GIL.)
- ST 04-0126-GIL 08/06/2004 Sales of "canned" computer software are taxable retail sales in Illinois. Canned software that is purchased via a download over the Internet is taxable as a retail sale. See 86 Ill. Adm. Code 140.141. (This is a GIL.)
- ST 04-0149-GIL 09/08/2004 If transactions for the Licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software nor the subsequent software updates will be subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)
- ST 04-0169-GIL 09/15/2004 If transactions for the Licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software nor the subsequent software updates will be subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)
- ST 04-0172-GIL 09/17/2004 This letter concerns maintenance service agreements. See 86 Ill. Adm. Code 140.301(b)(3). (This is a GIL.)
- ST 04-0180-GIL 09/21/2004 Sales of canned software are taxable regardless of the means of delivery. For instance, the transfer or sale of canned computer software downloaded electronically would be taxable. See 86 Ill. Adm. Code 130.1935(a). (This is a GIL.)

CONSTRUCTION CONTRACTORS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 04-0105-GIL 07/01/2004 Construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940 and 86 Ill. Adm. Code 130.2075. (This is a GIL.)
- ST 04-0151-GIL 09/09/2004 Construction contractors incur Use Tax liability on the cost price of the tangible personal property permanently affixed or estate. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

DELIVERY CHARGES

- ST 04-0123-GIL 08/06/2004 This letter discusses the taxation of shipping and handling charges. See 86 Ill. Adm. Code 130.415. (This is a GIL.)

DRUGS

- ST 04-0135-GIL 08/17/2004 A medicine or drug is any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities. A written claim on the label that a product is intended to cure or treat disease, illness, injury or pain, or to mitigate the symptoms of such disease, illness, injury or pain constitutes a medicinal claim. See 86 Ill. Adm. Code 130.310(c). (This is a GIL.)

ENTERPRISE ZONES

- ST 04-0128-GIL 08/10/2004 Protective clothing is exempt from sales and use tax if it is purchased for use or consumption within an Enterprise Zone in connection with the Enterprise Zone Manufacturing Machinery and Equipment Exemption, the Enterprise Zone Graphic Arts Production exemption, or the Enterprise Zone Pollution Control Facilities exemption. See 86 Ill. Adm. Code Section 130.1951. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 04-0174-GIL 09/17/2004 In order to qualify for the deduction, the material purchased must be building materials purchased for physical incorporation into real estate. See 86 Ill. Adm. Code 130.1951(e). (This is a GIL.)
- ST 04-0175-GIL 09/17/2004 This letter addresses a request for information regarding documentation needed to validate a purchase transaction of materials to be incorporated into an enterprise zone. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)
- FOOD
- ST 04-0111-GIL 08/02/2004 This letter discusses the manner in which food is taxed. See 86 Ill. Adm. Code 130.310. (This is a GIL.)
- ST 04-0112-GIL 08/02/2004 This letter discusses how sales of food can be subject to either low (1%) or high (6.25%) State tax rates under the Retailers' Occupation Tax Act. See 86 Ill. Adm. Code 130.310. (This is a GIL.)
- ST 04-0122-GIL 08/06/2004 Ready-to-heat meals that are not prepared for immediate consumption and are sold from a facility without an on-premises dining area are taxed at the lower rate. See 86 Ill. Adm. Code 130.310(a). (This is a GIL.)
- ST 04-0161-GIL 09/14/2004 A caterer's gross receipts would include all receipts associated with his or her sale of food. Such costs would include charges for linens, tables, chairs, dishes, glasses, flowers, labor and set-up and delivery. Each of these items is a part of the cost of doing business as a caterer. 86 Ill. Adm. Code 130.410. (This is a GIL.)
- ST 04-0178-GIL 09/21/2004 For purposes of the Retailers' Occupation Tax Act, food is "any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including food such as condiments, spices, seasonings, vitamins, bottled water and ice." See 86 Ill. Adm. Code 130.310(b)(1). (This is a GIL.)
- ST 04-0181-GIL 09/21/2004 Soft drinks do not qualify for the low rate of tax that is applicable to certain food items. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

FOOD, DRUGS & MEDICAL APPLIANCES

ST 04-0155-GIL 09/14/2004 Dietary supplements may be classified as drugs if the products purport on the label to have medicinal qualities. See 86 Ill. Adm. Code 130.310(c)(1) (This is a GIL.)

GROSS RECEIPTS

ST 04-0108-GIL 07/08/2004 Legal tender, currency, medallions, or gold and silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion are exempt from Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1910(c). (This is a GIL.)

ST 04-0154-GIL 09/13/2004 This letter discusses fees charged in retail sale and lease situations. See 86 Ill. Adm. Code 130.420. (This is a GIL.)

HOTEL OPERATORS' TAX

ST 04-0113-GIL 08/02/2004 The exemption from the Hotel Operators' Occupation Tax for "permanent residents" applies if an organization occupies or has the right to occupy any room or rooms in a hotel for at least 30 consecutive days, regardless of whether the individual who occupies the room during that period changes. See 35 ILCS 145/2. (This is a GIL.)

INTERSTATE COMMERCE

ST 04-0140-GIL 08/18/2004 This letter discusses sales in interstate commerce that originate in Illinois. 86 Ill. Adm. Code 130.605. (This is a GIL.)

ST 04-0144-GIL 08/20/2004 This letter discusses sales in interstate commerce that originate in Illinois. 86 Ill. Adm. Code 130.605. (This is a GIL.)

LEASING

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 04-0120-GIL 08/04/2004 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)
- ST 04-0121-GIL 08/04/2004 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)
- ST 04-0125-GIL 08/06/2004 Sales of tangible personal property to a lessor who leases that property to a governmental body are not subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.2012. (This is a GIL.)
- ST 04-0131-GIL 08/17/2004 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased and owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)
- ST 04-0134-GIL 08/17/2004 For Retailers' Occupation Tax and Use Tax liability purposes, there are two types of leasing situations: conditional sales and true leases. A conditional sale is usually characterized by a nominal or one dollar purchase at the close of the lease term. See Ill. Adm. Code 130.2010. (This is a GIL.)
- ST 04-0147-GIL 09/02/2004 This letter discusses tax liabilities in regards to construction contracts to engineer, install and maintain, data, voice, video, security and telecommunications equipment for the improvement of real estate. See 35 ILCS 120/1. (This is a GIL.)
- ST 04-0157-GIL 09/14/2004 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased and owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.220. (This is a GIL.)
- ST 04-0162-GIL 09/14/2004 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. The State of Illinois imposes no tax on rental receipts. Consequently, lessees incur no tax liability. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 04-0165-GIL 09/14/2004 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220. (This is a GIL.)
- ST 04-0182-GIL 09/21/2004 A conditional sale to an organization holding an active exemption identification "E" number is not subject to the Retailers' Occupation Tax and Use Tax obligations upon exercising the nominal buyout option. See 86 Ill. Adm. Code 130.420 and 86 Ill. Adm. Code 130.2007. (This is a GIL.)
- ST 04-0185-GIL 09/22/2004 Persons who purport to "lease" the use of property, but in fact sell such tangible personal property to the "lessees," are considered to be making conditional sales subject to Retailers' Occupation Tax. Section 130.2010(a). See 86 Ill. Adm. Code 270.115(b). (This is a GIL.)

LOCAL TAXES

- ST 04-0012-PLR 09/10/2004 This letter is a follow-up to previous letter ruling ST 03-0022-PLR This letter explains the situs of a sale at retail. 86 Ill. Adm. Code 270.115. (This is a PLR.)

MANUFACTURER'S PURCHASE CREDIT

- ST 04-0132-GIL 08/17/2004 Manufacturer's Purchase Credit reported on any original or amended return filed after October 20, 2003 shall be disallowed under the provisions of P.A. 93-24. See 35 ILCS 120/3 (Text of Section from P.A. 93-24). (This is a GIL.)

MANUFACTURING MACHINERY & EQUIPMENT

- ST 04-0163-GIL 09/14/2004 The manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

MEDICAL APPLIANCES

ST 04-0171-GIL 09/17/2004 Medical tools, devices and equipment used for diagnostic, rehabilitative and treatment purposes do not qualify for the reduced rate of tax for medical appliances as such items, while being used for treatment of patients, are not directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310(c). (This is a GIL.)

MISCELLANEOUS

ST 04-0118-GIL 08/03/2004 The council created under the Drycleaner Environmental Response Trust Act determines categorization of solvents for dry cleaning solvent tax liability purposes. See 415 ILCS 135/65(a). (This is a GIL.)

ST 04-0129-GIL 08/11/2004 This letter responds to a request for the Department to review information contained in a tax publication. See 86 Ill. Adm. Code 130. (This is a GIL.)

ST 04-0130-GIL 08/11/2004 The United States State Department, Office of Foreign Missions, issues tax exemption identification cards to certain accredited diplomatic personnel and consular offices under the authority of the Foreign Missions Act (22 U.S.C. 4301 et seq.). These cards can be presented at point of sale to document exemption from sales tax. See 86 Ill. Adm. Code 130.2080(c) and 130.Illustration A. (This is a GIL.)

ST 04-0143-GIL 08/20/2004 Television programming or other services in which no tangible personal property is transferred are not subject to Illinois Retailers' Occupation Tax, Use Tax, Service Occupation Tax, and Service Use Tax liability. See 86 Ill. Adm. Code 130.101 et. seq. (This is a GIL.)

ST 04-0148-GIL 09/07/2004 Fees charged by automobile dealers for the Electronic Vehicle Registration program are taxable in the same manner as other "documentation fees" or similar fees charged by automobile retailers. See Velde Ford Sales v. Dept. of Revenue, 136 Ill. App. 3d 589 (4th Dist 1985). (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 04-0150-GIL 09/08/2004 PLRs are issued at the discretion of the Department. If the same issue is pending in litigation before the Department, a PLR will not be issued. See section 1200.110. (This is a GIL.)
- ST 04-0158-GIL 09/14/2004 This letter discusses the high impact service facility exemption. See 35 ILCS 120/5j. (This is a GIL.)
- ST 04-0167-GIL 09/14/2004 This letter responds to an annual survey. See 86 Ill. Adm. Code 130. (This is a GIL.)
- ST 04-0187-GIL 09/27/2004 This letter responds to a survey regarding the Hotel Operators' Occupation Tax Act. See 86 Ill. Adm. Code 480.101. (This is a GIL.)

NEXUS

- ST 04-0110-GIL 07/12/2004 This letter concerns nexus for collection of Illinois Use Tax 86 Ill. Adm. Code 150.201(i) and 150.801. (This is a GIL.)
- ST 04-0170-GIL 09/15/2004 This letter discusses interior design and nexus issues. See 86 Ill. Adm. Code 150.801. (This is a GIL.)
- ST 04-0183-GIL 09/22/2004 The definition of a "retailer maintaining a place of business in Illinois" is described in 86 Ill. Adm. Code 150.201(i). This type of retailer is required to register with the State as an Illinois Use tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL.)

PUBLIC UTILITY TAXES

- ST 04-0137-GIL 08/18/2004 This letter responds to a survey regarding utility taxes, fuels and telecommunication taxes. See 86 Ill. Adm. Code 470.110. (This is a GIL.)

REPAIRS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 04-0141-GIL 08/18/2004 Tangible personal property transferred incident to the completion of an extended warranty will result in Use Tax liability by a serviceman based on the cost price of that tangible personal property. See 86 Ill. Adm. Code 140.301(b)(3) and 86 Ill. Adm. Code 140.141(c). (This is a GIL.)

SALE FOR RESALE

ST 04-0115-GIL 08/03/2004 This letter discusses the sale of containers or packing materials for resale. See 86 Ill. Adm. 130.2070. (This is a GIL.)

ST 04-0139-GIL 08/18/2004 Other evidence may be used to document a sale for resale, when a registration number or resale number and certification to the seller are not provided. See 86 Ill. Adm. Code 130.1405(d). (This is a GIL.)

ST 04-0176-GIL 09/20/2004 Unless an exemption is documented, the sale and delivery of tangible personal property to an Illinois customer creates a legal presumption that the sale is for use in Illinois and subject to tax. See 35 ILCS 105/4. (This is a GIL.)

SALE OF SERVICE

ST 04-0156-GIL 09/14/2004 In multi-service situations, when both primary servicemen and secondary servicemen are registered, primary servicemen provide secondary servicemen with a certificate of resale. See 86 Ill. Adm. Code 140.145. (This is a GIL.)

ST 04-0168-GIL 09/15/2004 When the seller and buyer agree upon an alteration or other special service charge separately from the selling price of tangible personal property, the charge for the alteration or other special service does not incur Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.450. (This is a GIL.)

ST 04-0186-GIL 09/22/2004 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

SERVICE OCCUPATION TAX

ST 04-0124-GIL 08/06/2004 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based upon the tangible personal property transferred incident to sales of service. See 35 ILCS 115/3. (This is a GIL.)

ST 04-0127-GIL 08/09/2004 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. If tangible personal property is not transferred, tax is not incurred. See 86 Ill. Adm. Code 140. (This is a GIL.)

ST 04-0179-GIL 09/21/2004 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based upon the tangible personal property transferred incident to sales of service. See 35 ILCS 115/3. (This is a GIL.)

TAX COLLECTION

ST 04-0160-GIL 09/14/2004 Manufacturers, importers and wholesalers whose products are sold at retail in Illinois by numerous retailers, may assume the responsibility for accounting and paying to the Department all tax accruing under the Act with respect to such sales, if the retailers who are affected do not make a written objection to the Department to the arrangement. See 86 Ill. Adm. Code 130.550. (This is a GIL.)

ST 04-0166-GIL 09/14/2004 Manufacturers, importers and wholesalers whose products are sold at retail in Illinois by numerous retailers, may assume the responsibility for accounting and paying to the Department all tax accruing under the Act with respect to such sales, if the retailers who are affected do not make a written objection to the Department to the arrangement. See 86 Ill. Adm. Code 130.550. (This is a GIL.)

TELECOMMUNICATIONS EXCISE TAX

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 04-0146-GIL 08/23/2004 This letter discusses voice mail services. See 86 Ill. Adm. Code 495.100. (This is a GIL.)

ST 04-0153-GIL 09/13/2004 The Telecommunications Excise Tax Act imposes a tax on the act or privilege of originating or receiving intrastate or interstate telecommunications by persons in Illinois that have purchased those telecommunications at retail from retailers. See 86 Ill. Adm. Code 495/100 et seq. (This is a GIL.)

TIRE USER FEE

ST 04-0133-GIL 08/17/2004 This letter concerns the application of Tire User Fees to reprocessed tires. See 415 ILCS 5/55.8(e). (This is a GIL.)

TOBACCO PRODUCTS TAX ACT

ST 04-0177-GIL 09/21/2004 A licensed importing distributor of alcoholic liquor that distributes bottles of cognac with a cigar sealed within the bottle is not, in this instance, acting as a distributor of tobacco products under the Tobacco Products Tax Act of 1995. See 35 ILCS 145/10-5). (This is a GIL.)

TRADE-INS

ST 04-0145-GIL 08/23/2004 This letter provides information regarding advance trade-ins. See 86 Ill. Adm. Code 130.455(d). (This is a GIL.)

ST 04-0164-GIL 09/14/2004 A trade-in of a vehicle, with its trade-in value agreed to by the parties to be determined at a later date, would generally qualify as a trade-in for purposes of the Illinois Retailers' Occupation Tax and Use Tax. See 86 Ill. Adm. Code 130.425 and 130.455. (This is a GIL.)

USE TAX

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 04-0114-GIL 08/02/2004 This letter discusses the tax consequences of the gift, or the sale for a nominal value, of a cellular phone as part of a promotional event. See 86 Ill. Adm. 150.305(c). (This is a GIL.)
- ST 04-0136-GIL 08/17/2004 Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605. (This is a GIL.)
- ST 04-0138-GIL 08/18/2004 When a retailer allows a purchaser a discount from the selling price for which the retailer receives no reimbursement from any source, the amount of such discount is not subject to tax. See 86 Ill. Adm. Code 130.420. (This is a GIL.)
- ST 04-0142-GIL 08/19/2004 Construction contractors are deemed the end users of property permanently affixed to real estate. See 86 Ill. Adm. Code 130.1940(b). (This is a GIL.)
- ST 04-0152-GIL 09/10/2004 If a user of tangible personal property purchases the tangible personal property at retail from a retailer, but does not pay the Use Tax to such retailer, the purchaser shall pay the Use Tax directly to the Department. See 86 Ill. Adm. 150.130. (This is a GIL.)
- ST 04-0173-GIL 09/17/2004 Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605. (This is a GIL.)

PROCLAMATIONS

2004-289**Mothers of Multiples Week**

WHEREAS, according to the U.S. Census Bureau, pregnant women have a 1 in 32 chance of delivering twins, and a 1 in 540 chance of delivering triplets or other multiple births; and

WHEREAS, here are two kinds of twins: identical twins develop from one fertilized egg that splits into two separate eggs, and fraternal twins come from two separate eggs that are fertilized at the same time; and

WHEREAS, twins/multiples and their families share a special bond that can never be broken, however multiple births can sometimes bring about unforeseen challenges and lifestyle adjustments. With that in mind, the Illinois Organization of Mothers of Twins Clubs, Incorporated (IOMOTC) was formed in 1962 to provide support, information, and networking services to parents of multiple birth children; and

WHEREAS Mothers of Multiples Week was established to celebrate the joy that multiple birth children bring to families. Each year in October, the IOMOTC holds a convention that brings mothers of multiples from across the state together to share new information, and engage in various networking opportunities:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 11-17, 2004 as **MOTHERS OF MULTIPLES WEEK** in Illinois, and encourage all citizens to recognize the efforts of these caring and nurturing women who have proudly accepted the task of raising twins or other multiples.

Issued by the Governor October 5, 2004.

Filed by the Secretary of State October 5, 2004.

2004-290**Sarcoidosis Awareness Month**

WHEREAS, sarcoidosis is a disease that causes inflammation of the body's tissues. It can occur in any organ of the body and upsets cells until they eventually form granulomas, which are small lumps that stay within the organ; and

WHEREAS, sarcoidosis can affect people all across the globe. Although it was once viewed as a rare disease, over the last 35 years the affected population has increased. Sarcoidosis is now the most common fibrotic lung disorder and one of the most common chronic diseases in the world; and

WHEREAS, symptoms of sarcoidosis are far ranging. Since the disease can affect any organ in the body, the symptoms are different for each organ. The most common symptoms include: fatigue, loss of appetite, fever, night sweats, enlarged lymph nodes, a skin rash, and shortness of breath and/or chest pain; and

PROCLAMATIONS

WHEREAS, sarcoidosis is not easily diagnosed and can often go undetected or misdiagnosed for a long period of time. Because of this, it is difficult to estimate the number of people living with the disease today; and

WHEREAS, many patients with sarcoidosis do not require treatment and are able to function normally, particularly those without disabling symptoms. Although corticosteroids remain the primary treatment for sarcoidosis, a critical aspect of treatment is to keep the affected organs working and relieve the symptoms. Many times, symptoms will disappear spontaneously or without treatment; and

WHEREAS, there are many dedicated organizations in this country working to raise awareness about this disease. Throughout the month of October 2004, the National Sarcoidosis Society, Incorporated, will be hosting four conferences in Illinois to provide health care providers and health departments with important sarcoidosis information:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 2004 as SARCOIDOSIS AWARENESS MONTH in Illinois, and encourage all citizens to educate themselves on this unfortunate chronic illness, and do what they can to support those who are affected by it.

Issued by the Governor October 5, 2004.

Filed by the Secretary of State October 5, 2004.

2004-291**Put the Brakes on Fatalities Day**

WHEREAS, according to the National Highway and Traffic Safety Administration, over 42,000 lives are claimed each year as the result of deadly motor vehicle crashes in the United States; and

WHEREAS, in 2003, speeding was a contributing factor in 31 percent of all fatal crashes. The economic cost of speeding-related crashes in the U.S. is estimated to be more than \$40 billion dollars every year; and

WHEREAS, driver behavior plays a large role in automobile accidents. It is important for the driver to focus on the road and drive the speed limit. Following these two safety precautions can help to prevent a fatal crash; and

WHEREAS, some additional tips for safe driving include: always wearing your seatbelt, being cognizant of blind spots, and avoiding aggressive driving. In addition, it is imperative that drivers never operate a motor vehicle under the influence of alcohol or other controlled substances; and

WHEREAS, on October 10, 2004, there will be several events held throughout Illinois to help raise awareness of how critically important it is to always drive safely and alertly:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 10, 2004 as PUT THE BRAKES ON FATALITIES DAY in Illinois, and encourage all citizens to practice safe driving habits in an effort to reduce automobile-related fatalities in Illinois, and throughout the country.

Issued by the Governor October 5, 2004.

PROCLAMATIONS

Filed by the Secretary of State October 5, 2004.

2004-292
Kindergarten Day

WHEREAS, enrollment in pre-primary education in the United States has increased significantly since 1991. According to the National Center for Education Statistics, from 1991 – 2001, pre-primary enrollment of children between the ages of three and five increased by twenty percent; and

WHEREAS, during the kindergarten years, children often make considerable gains in reading and math. In addition, they begin to develop advanced social skills from the constant interaction that they have with one another; and

WHEREAS, those different skills and abilities that kindergarteners acquire lay the foundation for success at future grade levels. History has shown that in many cases, these children go on to become more competent learners, and are less likely to be held back in school; and

WHEREAS, my administration is committed to improving education in Illinois at all levels. In each of my first two years in office, significant increases have been made in K-12 spending and per-student state aid funding. With these efforts, we are aiming to not only enhance the educational experiences of current students, but also to continue increasing enrollment in pre-school and kindergarten programs in this state:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim September 14, 2004 as KINDERGARTEN DAY in Illinois, and encourage all parents to enroll their children in kindergarten to enhance their abilities, and provide them with better chances to succeed later in life.

Issued by the Governor October 6, 2004.

Filed by the Secretary of State October 6, 2004.

2004-293
Chicago Commons Appreciation Day

WHEREAS, in 1894, Chicago Commons was founded by Graham Taylor, who was strongly committed to providing human services in response to social challenges that faced many individuals, families and neighborhoods of the time; and

WHEREAS, now, over one-hundred years later, Chicago Commons continues to fulfill its mission of partnering with individuals, families and communities to help overcome poverty, discrimination and isolation; and

WHEREAS, reported declines of child abuse and neglect cases over the last century are a tribute to the many efforts provided by Chicago Commons, along with state agencies such as the

PROCLAMATIONS

Department of Children and Family Services and the Department of Human Services, and the various programs that those entities provide; and

WHEREAS, the 110th anniversary of Chicago Commons is a testament to the terrific efforts they put forth each day, and Illinois is proud to join in recognizing their tremendous presence in this state:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim November 9, 2004 as CHICAGO COMMONS APPRECIATION DAY in Illinois, and encourage all citizens to join with me in commending the positive impact that this organization has had on the communities of Chicagoland.

Issued by the Governor October 6, 2004.

Filed by the Secretary of State October 6, 2004.

2004-294**World Sight Day**

WHEREAS, the epidemic of global blindness is of great concern to the world. According to the World Health Organization, every 5 seconds a new person becomes blind; and

WHEREAS, there are approximately 45 million people worldwide that suffer from a form of visual impairment, and 90 percent of those individuals reside in developing countries; and

WHEREAS, the World Health Organization has determined that roughly 80 percent of blindness in the world is avoidable. In many cases, blindness occurs because necessary preventable measures were not taken to avoid it; and

WHEREAS, VISION 2020: The Right to Sight is a joint global initiative run by the World Health Organization and the International Agency for the Prevention of Blindness. The goal of the initiative is to educate the public about blindness prevention and to generate support for programs that work to eliminate blindness around the world; and

WHEREAS, in Illinois, we also have a strong commitment to eradicating blindness. Through efforts such as the Pediatric Vision Initiative, which seeks to prevent childhood vision impairments such as amblyopia by promoting screening and early detection, the First Lady and I are working diligently to bring these issues to the forefront of Illinoisans' minds:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 14, 2004 as WORLD SIGHT DAY in Illinois, and encourage all citizens to support the continued efforts being put forth in this state and throughout the world, to halt the spread of blindness.

Issued by the Governor October 7, 2004.

Filed by the Secretary of State October 8, 2004.

2004-295**Louis Glunz Beer, Incorporated Day**

PROCLAMATIONS

WHEREAS, Louis Glunz Beer, Incorporated is not only the oldest beer wholesaler in Illinois, but it is the oldest in the entire United States; and

WHEREAS, the Glunz Beer tradition began in 1879, when Louis Glunz immigrated to this country from Germany. Nine years after moving to Chicago, he formed the Louis Glunz Beer, Incorporated Wholesale Company, and opened his headquarters in the heart of the city of Chicago at the corner of Division and Wells streets; and

WHEREAS, Louis Glunz passed away in 1931, but his legacy was faithfully carried on by his son, Louis Glunz II, and is now led by his grandson, Jack Glunz. He and the company's dedicated employees, which include the fourth and fifth generations of the Glunz family, have worked tirelessly to make the company the success story it has become today. Today, their portfolio features over 500 beer brands from 59 breweries worldwide; and

WHEREAS, aside from their great success in the beer wholesaling business, Louis Glunz Beer, Incorporated believes in giving back to the community. They are avid supporters of "German-American Fest," "Christkindlmarket," and the "Sheffield Garden Walk." They also donate to hundreds of fundraising events throughout the state each year; and

WHEREAS, Louis Glunz Beer, Incorporated has persevered through over 100 years of history, surviving such hardships as prohibition, the Great Depression, and World War I and II; and

WHEREAS, this year, Louis Glunz Beer, Incorporated will be celebrating their 116th anniversary. The celebration, which has been dubbed the "Sweet Sixteen Plus a Century" Anniversary, will afford the entire Louis Glunz Beer family the opportunity to commemorate their rich history and look forward to many more successful years:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim November 6, 2004 as LOUIS GLUNZ BEER, INCORPORATED DAY in Illinois, and encourage all citizens to recognize the positive impact that this Illinois institution has had on the economy of this state over the past 116 amazing years.

Issued by the Governor October 7, 2004.

Filed by the Secretary of State October 8, 2004.

2004-296**Healthy Smiles Week**

WHEREAS, many citizens of the State of Illinois still suffer from dental pain and disease because of improper oral hygiene habits; and

WHEREAS, the Illinois Department of Health reports 31 percent of adults had lost one to five teeth due to dental decay or gum disease; and

WHEREAS, 54 percent of children in grades one, two, and eight had evidence of dental decay on baby teeth or permanent teeth, and 38 percent of 6- to 8-year old children had untreated dental decay on their baby or permanent teeth; and

PROCLAMATIONS

WHEREAS, a majority of counties go without pediatric dental care in the State of Illinois since only 17 of 102 counties have a pediatric dentist; and

WHEREAS, children will continue to have dental pain into adulthood without improved oral hygiene habits; and

WHEREAS, effective July 1, 2005 all children entering Kindergarten, second and sixth grade will receive an oral health exam before entering school; and

WHEREAS, school age children in the State of Illinois will be able to receive dental screening services from the University of Illinois at Chicago and Southern Illinois University School of Dentistry; and

WHEREAS, the Office of Lieutenant Governor Pat Quinn, the University of Illinois at Chicago, Southern Illinois University College of Dentistry, IFLOSS (Illinois-based organization focused on oral health), Covering Kids & Families, Chicago Department of Public Health, Illinois Department of Public Health, and others are all participating to improve oral health for citizens across the State of Illinois:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 10 – October 16, 2004 as HEALTHY SMILES WEEK in Illinois, and encourage all community health centers and dental service centers to participate in free screening services for children. In addition, all citizens are encouraged to become educated about the important role oral health plays in our society.

Issued by the Governor October 7, 2004.

Filed by the Secretary of State October 8, 2004.

ILLINOIS ADMINISTRATIVE CODE Issue Index - With Effective Dates

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