

2004

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 28 Issue 46
November 12, 2004
Pages 14737-14890

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Child Care
- 2) Code Citation: 89 Ill Adm. Code 50
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
50.210	Amendment
50.230	Amendment
50.233	New Section
- 4) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking sets out the standards that must be met and the relevant documentation required to verify legitimate employment or self-employment for child care assistance purposes without regard to where the work is performed. These proposed amendments specify the criteria that will be used to determine eligibility for child care assistance when activities are performed in the home, for individuals who are paid in cash and for self-employed individuals. This rulemaking is in response to a recommendation that was issued by the Joint Committee on Administrative Rules at its meeting on March 23, 2004.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
50.230	Amendment	28 Ill. Reg. 9816; 7-16-04
50.320	Amendment	28 Ill. Reg. 9816; 7-16-04
- 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 present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
(217) 785-9772

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Small business owners
 - 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.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 50
CHILD CARE

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50.120	Notification of Available Services
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Section	
50.210	Child Care
50.220	Method of Providing Child Care
50.230	Child Care Eligibility
<u>50.233</u>	<u>Child Care Eligibility Criteria for Activities Performed in the Home, for Individuals Paid in Cash and for Self-Employed Individuals</u>
50.235	Income Eligibility Criteria
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NOTICE OF PROPOSED AMENDMENTS

SUBPART E: GREAT START PROGRAM

Section

50.510	Great START Program
50.520	Method of Providing the Wage Supplement
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50.550	Notification of Eligibility
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50.570	Wage Supplement Scale
50.580	Evaluation

AUTHORITY: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9502, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 14961, effective November 10, 1997; emergency amendment at 22 Ill. Reg. 12816, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 21037, effective November 27, 1998; emergency amendment at 23 Ill. Reg. 10875, effective August 20, 1999, for maximum of 150 days; amended at 24 Ill. Reg. 1058, effective January 10, 2000; emergency amendment at 24 Ill. Reg. 6604, effective April 5, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 13987, effective September 1, 2000; amended at 24 Ill. Reg. 15423, effective October 10, 2000; emergency amendment at 25 Ill. Reg. 2735, effective February 5, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 8176, effective June 23, 2001; emergency amendment at 25 Ill. Reg. 8443, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14854, effective October 31, 2001; emergency amendment at 25 Ill. Reg. 16116, effective December 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7113, effective April 25, 2002; amended at 27 Ill. Reg. 12090, effective July 14, 2003; amended at 27 Ill. Reg. 18411, effective November 24, 2003; amended at 28 Ill. Reg. 6895, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 10121, effective July 1, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. _____, effective _____.

SUBPART B: APPLICABILITY

Section 50.210 Child Care

- a) To the extent resources permit, the Department shall provide child care services:
 - 1) to parents or other relatives who are working ~~outside the home~~;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 2) to parents or other relatives who are participating in employment, training, or education programs ~~outside the home~~ that are approved by the Department; and
 - 3) to teen parents to enable them to obtain a high school degree or its equivalent.
- b) The term "parents" and the phrase "parents or other relatives" refer to applicants for or recipients of child care services. They include a child's custodial biological or adoptive parent, stepparent, legal guardian, or caretaker relative within the fifth degree of kinship.
 - c) Family means the applicant, his or her spouse, and the biological or adoptive children or stepchildren of the applicant or his or her spouse under age 21 living in the same household. Family must also include the child for whom care is requested, the child's dependent blood-related and adoptive siblings, and the child's and sibling's parents living in the same household. The applicant may include in his or her family other persons related by blood or law to the applicant or his or her spouse living in the same household if they are dependent upon the family for more than 50 percent of their support. The applicant may include in his or her family a child of the applicant or his or her spouse under age 21 who is dependent upon the family for more than 50 percent of his or her support and who is a full-time student away at school, provided he or she has not established legal residence outside the family household.
 - d) Teen parent means parents through age 19.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 50.230 Child Care Eligibility

- a) Child care services are restricted to children under age 13 and to children under age 19 who are under court supervision or have physical or mental incapacities as documented by a statement from a local health provider or other health professional.
- b) Parents and other relatives eligible to receive child care services include:
 - 1) Recipients of Temporary Assistance for Needy Families (TANF) under Article IV of the Public Aid Code participating in work and training

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NOTICE OF PROPOSED AMENDMENTS

activities as specified in their personal plans for employment and self-sufficiency who have been approved for child care benefits by the Department and who meet the monthly income ceilings in subsection (b)(2) of this Section.

- 2) Working families, including teen parents while they attend school to obtain a high school degree or its equivalent, whose monthly incomes do not exceed the following amounts by family size:

Family Size	Gross Monthly Income
2	\$1,885
3	\$2,328
4	\$2,772
5	\$3,215
6	\$3,658
7	\$3,741
8	\$3,825

The above income guidelines will be indexed annually so that the thresholds are no less than 50% of the most current State Median Income for each family size.

- 3) Families who do not receive TANF and need child care services in order to attend school or training (up to and including the acquisition of the first Associate Degree and/or the first Bachelor's Degree) whose monthly income does not exceed the monthly income ceilings in subsection (b)(2) of this Section. Qualifying families are eligible to receive child care services needed to attend literacy and other adult basic education, English as a Second Language, GED preparation, and vocational training for up to 24 non-consecutive months with no work requirement, after which they must work a monthly average of at least 20 hours per week in paid employment. Child care provided to a teen parent to obtain a high school degree, or its equivalent, does not count against this 24-month limit. Qualifying families are eligible to receive child care services to attend a 2 or 4 year college degree program if they work a monthly average of at least 10 hours per week in paid employment or a monthly average of at least 20 hours per week in a combination of paid employment and unpaid, educationally-required work activities such as student teaching, an

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NOTICE OF PROPOSED AMENDMENTS

internship, a clinical, a practicum or an apprenticeship. Child care services shall be available during time periods that are reasonably related to the following activities—~~performed outside the home~~: paid work, self-employment and education or training activity, including class hours and research, laboratory, library and transportation time. Families with a work requirement shall receive the same grace periods between jobs as persons who receive services pursuant to subsection (b)(2) of this Section. If a parent is claimed as a dependent by another person for federal income tax purposes, that parent is only eligible if his or her income when added to the income of the other person does not exceed the monthly income ceiling in subsection (b)(2) of this Section for that family size.

- 4) Relatives (other than parents) who receive child-only TANF or General Assistance (GA) benefits as Representative Payee for children in need of care while they work ~~outside the home~~.
- c) All families must be residents of Illinois.
- d) Payment for child care services to eligible parents may begin:
 - 1) if care was provided at the time and all eligibility factors are met, on either:
 - A) the date of the parent's signature; or
 - B) one week (seven calendar days) prior to the stamped date of receipt by the Department or its agents, whichever is later; or
 - 2) on the date the child care provider actually begins providing child care services, if the application is received in advance of services being provided and all eligibility factors are met.
- e) Eligibility ceases 10 calendar days from the date of the termination notice sent to the parent by the Department or its agents following a determination of ineligibility.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 50.233 Child Care Eligibility Criteria for Activities Performed in the Home, for Individuals Paid in Cash and for Self-Employed Individuals

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

a) Activities Performed in the Home

- 1) Eligibility for child care assistance is dependent upon the individual's need for child care in order to perform or participate in an activity that will lead to self-sufficiency. An applicant for child care assistance who works or attends an educational program at home must fully document the need for child care. The individual requesting child care assistance shall provide written documentation that describes the nature of the activity performed, the hours required to perform the activity, and how the activity prevents the individual from caring for his or her children. To determine if child care assistance eligibility criteria is met, the Department shall consider various factors including, but not limited to, the nature of the activity and the ages of the child or children for whom care is sought.
- 2) In order to receive child care assistance, the individual is responsible for providing income verification (see [Section 50.110\(d\)](#)).
- 3) Income verification for an individual who works in the home but is not paid in cash may include, but is not limited to, providing pay stubs or direct deposit receipts.

b) Individuals Paid in Cash

An individual paid in cash is eligible for child care assistance only if he or she is able to document his or her income and hours worked with a wage verification form or other business records on the employer's letterhead or logo. If the employer of the individual who is paid in cash is unwilling to substantiate the individual's employment, the individual may substantiate his or her income and hours worked using the procedures for a person who is self-employed (see subsection (c) of this Section).

c) Self-Employed Individuals

- 1) Self-employed persons direct their own trade, profession or business. Documentation to support self-employment may include, but is not limited to:
 - A) a monthly statement of earnings and expenses;

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- B) the most recent, signed federal income tax return and all applicable schedules and attachments, and/or current quarterly filings;
 - C) business or professional license;
 - D) documentation received by the State of Illinois, city or county governmental entity indicating the right to do business in the State of Illinois;
 - E) newspaper publication "Notice of Assumed Name".
- 2) All self-employed individuals must fully document their income and expenses. Accurate and complete records shall be kept on all monies received and spent through self-employment. If the individual fails or refuses to maintain complete business records, the family shall be ineligible for child care assistance.
- 3) Self-employment business expenses must be verified. The individual shall maintain and provide all self-employment business expenses. Documentation of expenses may include, but not be limited to, receipts, copies of checks, money orders, credit card statements, credit memos, and bank statements.
- 4) Allowable business expenses, to the extent they are directly related to producing goods or services, may include:
- A) replacement of stock;
 - B) purchase of inventory;
 - C) space rental;
 - D) utilities;
 - E) advertising;
 - F) salaries for employees other than the client, the client's spouse, and the client's children;
 - G) transportation expenses required for employment;

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- H) interest on loans for capital assets or durable goods; and
 - D) income reinvested in a business, except for the purchase of real estate. This includes the purchase of capital equipment, payment on the principal of loans, and other expenses needed to produce goods and services.
- 5) The following items are not allowable business expenses:
- A) depreciation;
 - B) obsolescence and/or similar losses in the operation of the business;
 - C) personal business costs for items that can typically be used for purposes other than the business for which child care is sought;
 - D) entertainment;
 - E) meals; and
 - F) personal transportation.
- 6) If business expenses exceed the gross receipts, resulting in a net loss, the individual must detail in writing how he or she is meeting basic living expenses, including, but not limited to, housing, utilities, food, and transportation. Failure of the parent or caretaker relative to demonstrate how he or she is meeting basic living expenses shall result in the denial or termination of child care benefits. If the allowable expenses exceed the total proceeds, the amount of the loss shall not be used to offset income from any other source.
- 7) If the number of hours worked cannot be verified, the amount of child care services allowed shall not exceed the documented income divided by the current State minimum hourly wage.

(Source: Added at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Service Planning and Provisions
- 2) Code Citation: 89 Ill. Adm. Code 684
- 3) Section Number: 684.100 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: Language is being revised to clarify that illegal activity must directly and adversely affect the Home Service Program in order for a customer's service to be terminated.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: 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 present their comments concerning these rules within 45 days of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762
(217) 785-9772

- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: This change was not anticipated at the time of the 7/04 regulatory agenda.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAMPART 684
SERVICE PLANNING AND PROVISION

Section

684.10	Service Plan
684.20	Procuring an Appropriate Service Provider
684.30	Family Members as Service Providers
684.40	Distribution of the Service Plan
684.50	Service Plan Content
684.60	Provision of Services
684.70	Service Planning Limitations
684.75	Required Physician's Certification of HSP Service Plan
684.80	Interim Services
684.90	Coordination of HSP and Other Services
684.100	Denial or Termination of HSP Services

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5129, effective March 21, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18955, effective October 1, 1998; amended at 23 Ill. Reg. 6470, effective May 17, 1999; amended at 23 Ill. Reg. 12644, effective October 4, 1999; amended at 24 Ill. Reg. 2687, effective February 2, 2000; amended at 24 Ill. Reg. 10220, effective June 27, 2000; amended at 29 Ill. Reg. _____, effective _____.

Section 684.100 Denial or Termination of HSP Services

HSP services shall be denied or terminated and case closure initiated at any time the customer:

- a) moves from the State of Illinois or cannot be located or contacted;
- b) is determined to have a projected service cost above that of the projected cost of institutionalization, with the exceptions found at 89 Ill. Adm. Code 682.500(a), 682.520, and 684.70(c);

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- c) refuses services or further services;
- d) dies;
- e) is institutionalized and not expected to be released for a period to exceed 60 calendar days;
- f) has been referred to another agency for the same or similar services and no longer requires or is eligible for HSP services;
- g) fails to conduct himself/herself in an appropriate manner (e.g., physical, sexual or repeated verbal abuse by a customer against a DHS employee, provider or agent providing services through HSP; knowingly provides false information; or performs illegal activity that would directly and adversely affect the HSP; illegal activity, physical or sexual abuse, or threat thereof, or repeated verbal abuse by a customer against a DHS employee, agent or a provider providing services through HSP);
- h) is not, or is no longer, at risk of institutionalization due to improvement of his/her condition;
- i) fails to meet other eligibility criteria as found at 89 Ill. Adm. Code 682 as a result of an initial determination of eligibility or redetermination of eligibility;
- j) fails to cooperate (e.g.i.e., refuses to complete and sign necessary forms, fails to keep appointments, fails to maintain adequate providers); or
- k) cannot have a safe and adequate service plan developed for him/her as a result of the original determination of eligibility or redetermination of eligibility.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Taking of Wild Turkeys – Spring Season
- 2) Code Citation: 17 Ill. Adm. Code 710
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
710.10	Amendment
710.30	Amendment
710.50	Amendment
710.70	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].
- 5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part include updating season dates and sites open to hunting. A new Section containing regulations pertaining to Spring Youth Turkey Hunts is also being added. Currently, regulations on all youth hunts appears in 17 Ill. Adm. Code 685. The Department has determined that adult and youth hunting regulations pertaining to the same species should appear in one rule.
- 6) Will this rulemaking contain an automatic repeal date? 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 Objective: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2004

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 710
THE TAKING OF WILD TURKEYS – SPRING SEASON

Section

710.5	Hunting Zones
710.10	Hunting Seasons
710.20	Statewide Turkey Permit Requirements
710.21	Turkey Permit Requirements – Special Hunts (Renumbered)
710.22	Turkey Permit Requirements – Landowner/Tenant Permits
710.25	Turkey Permit Requirements – Special Hunts
710.28	Turkey Permit Requirements – Heritage Youth Turkey Hunt (Repealed)
710.30	Turkey Hunting Regulations
710.40	Other Regulations (Repealed)
710.50	Regulations at Various Department-Owned or -Managed Sites
710.55	Special Hunts for Disabled Hunters
710.60	Releasing or Stocking of Turkeys
<u>710.70</u>	<u>Spring Youth Turkey Hunt</u>

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

SOURCE: Adopted at 4 Ill. Reg. 15, p. 153, effective April 1, 1980; codified at 5 Ill. Reg. 10643; amended at 6 Ill. Reg. 3852, effective March 31, 1982; amended at 7 Ill. Reg. 4208, effective March 25, 1983; amended at 8 Ill. Reg. 5663, effective April 16, 1984; amended at 9 Ill. Reg. 6200, effective April 24, 1985; amended at 10 Ill. Reg. 6848, effective April 4, 1986; amended at 11 Ill. Reg. 2267, effective January 20, 1987; amended at 12 Ill. Reg. 5342, effective March 8, 1988; amended at 13 Ill. Reg. 5090, effective April 4, 1989; amended at 14 Ill. Reg. 663, effective January 2, 1990; amended at 15 Ill. Reg. 4161, effective March 4, 1991; amended at 16 Ill. Reg. 1843, effective January 17, 1992; amended at 17 Ill. Reg. 3184, effective March 2, 1993; amended at 18 Ill. Reg. 1156, effective January 18, 1994; emergency amendment at 18 Ill. Reg. 3751, effective March 1, 1994, for a maximum of 150 days; emergency expired July 29, 1994; amended at 19 Ill. Reg. 2450, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5312, effective April 1, 1995, for a maximum of 150 days; emergency expired August 29, 1995; amended at 20 Ill. Reg. 777, effective December 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 3125, effective March 3, 1997; amended at 22 Ill. Reg. 2192, effective January 2, 1998; amended at 22 Ill. Reg. 19568, effective October 23, 1998; amended

DEPARTMENT OF NATURAL RESOURCES

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at 23 Ill. Reg. 11956, effective September 21, 1999; amended at 24 Ill. Reg. 7984, effective May 24, 2000; amended at 24 Ill. Reg. 17778, effective November 27, 2000; amended at 25 Ill. Reg. 14176, effective October 22, 2001; amended at 26 Ill. Reg. 18028, effective December 6, 2002; amended at 27 Ill. Reg. 17075, effective October 22, 2003; amended at 29 Ill. Reg. _____, effective _____.

Section 710.10 Hunting Seasons

a) Northern Zone Season Dates:

1 st Season:	Monday, April 1112 -Friday, April 1516 , 20052004
2 nd Season:	Saturday, April 1617 -Thursday, April 2122 , 20052004
3 rd Season:	Friday, April 2223 -Wednesday, April 2728 , 20052004
4 th Season:	Thursday, April 2829 -Wednesday, May 45 , 20052004
5 th Season:	Thursday, May 56 -Thursday, May 1213 , 20052004

b) Southern Zone Season Dates:

1 st Season:	Monday, April 45 -Friday, April 89 , 20052004
2 nd Season:	Saturday, April 910 -Thursday, April 1415 , 20052004
3 rd Season:	Friday, April 1516 -Wednesday, April 2021 , 20052004
4 th Season:	Thursday, April 2122 -Wednesday, April 2728 , 20052004
5 th Season:	Thursday, April 2829 -Thursday, May 56 , 20052004

c) Open Counties:

NORTHERN ZONE

Adams
Boone
Brown
Bureau
Calhoun

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Carroll
Cass
Champaign
Christian
Clark
Coles
Cumberland
DeKalb
DeWitt
Edgar
Fulton
Greene
Grundy
Hancock
Henderson
Henry
Iroquois
Jersey
Jo Daviess
Kankakee
Kendall
Knox
La Salle
Lee
Livingston
Logan
Macon
Macoupin
Marshall-Putnam
Mason
McDonough
McHenry
McLean
Menard
Mercer
Montgomery
Morgan
Moultrie
Ogle
Peoria

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Piatt
Pike
Rock Island
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Vermilion
Warren
Whiteside
Will
Winnebago
Woodford

SOUTHERN ZONE

Alexander
Bond
Clay
Clinton
Crawford
Edwards
Effingham
Fayette
Franklin
Hamilton
Gallatin-Hardin
Jackson
Jasper
Jefferson
Johnson
Lawrence
Madison
Marion
Massac
Monroe
Perry
Pope

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Pulaski
Randolph
Richland
Saline
St. Clair
Union
Wabash
Washington
Wayne
White
Williamson

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 710.30 Turkey Hunting Regulations

It is unlawful:

- a) to use live or electronic turkey decoys, recorded calls, dogs, or bait (an area is considered as baited during the presence of and for 10 consecutive days following the removal of the bait);
- b) to take any wild turkey except a hen with a visible beard or a gobbler (male);
- c) to take, or attempt to take, more than three wild turkeys during the spring season, one must have a valid permit for each turkey that is taken;
- d) to use any weapon except a shotgun or bow and arrow. #4 shot is the largest and #7½ is the smallest size shot that may be legally used. Archers may use a long, recurved, or compound bow with a minimum pull of 40 pounds at some point within a 28-inch draw. Minimum arrow length is 20 inches and broadheads must be used. Broadheads may have fixed or expandable blades, but they must be barbless and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-knapped; broadheads with expandable blades must be metal. Any mechanical device capable of maintaining a drawn position or partially drawn position on a bow is illegal. All other bows and arrows, including electronic arrow tracking systems, are illegal;
- e) to hunt except from ½ hour before sunrise to 1:00 p.m. during each day of the season;

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- f) for any person having taken the legal limit of wild turkeys to further participate with a weapon in any hunting party for the purpose of taking additional wild turkeys;
- g) for any person to possess while in the field during wild turkey season any turkey permit issued to another person (permits are non-transferable);
- h) to transport or leave a wild turkey without first affixing the adhesive-backed turkey permit securely around the leg. Immediately upon kill and before the turkey is moved, transported or field dressed, the hunter must cut out the designated notch on the leg tag to invalidate it, and the tag must be affixed to the turkey. Successful hunters must register their harvest by 3:00 p.m. on the same calendar day as the turkey was taken by calling the toll-free telephone number provided with their turkey hunting permit. Hunters must provide all information requested by the telephone check-in system, and will be provided with a confirmation number to verify that they checked in their harvest. The confirmation number must be written by the hunter on the leg tag. The leg tag must remain attached to the leg of the turkey until it is at the legal residence of the person who legally took or possessed the turkey and the turkey has been checked in. The turkey must remain whole (or field dressed) until it has been checked in;
- i) for any person to shoot a wild turkey while it is in a tree before 7:00 a.m.;
- j) for any person to hunt wild turkeys without possessing a Wild Turkey Hunting Permit which shall include the hunter's signature recorded on the permit and carried on the person while hunting, except that a person without a weapon may accompany a turkey hunter as a caller or observer;
- k) for any person to use a turkey call that imitates sounds made by a turkey or to attempt to call a turkey by making these sounds while in the field in the Southern Zone from March 15 through the day before the 1st turkey season and in the Northern Zone from March 22 through the day before the 1st turkey season. This prohibition only applies in counties open to spring turkey hunting. This prohibition does not apply to participants in the Youth Turkey ~~HuntSeason~~ with a valid permit, or their accompanying adult, during that season as prescribed by ~~Section 710.7017 Ill. Adm. Code 685—Youth Hunting Seasons~~.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 710.50 Regulations at Various Department-Owned or -Managed Sites

- a) Hunters who intend to hunt Department sites and who have a physical disability

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that requires special accommodations must contact the site superintendent at least 10 days before the date they wish to hunt. The site superintendent shall make reasonable accommodations necessary to allow the disabled person to participate in the hunting experience at the site. Disabled hunters who require an aide or assistant with them during the hunt are responsible for providing the aide or assistant and notifying the site superintendent that an assistant will be present, and whether the assistant will also be hunting.

- b) Hunters must sign in/sign out at all sites in subsections (c) and (d) which are followed by a (1).
- c) Statewide regulations shall apply for the following sites:

Anderson Lake Conservation Area (1)

Argyle Lake State Park (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Carlyle Lake Wildlife Management Area

Cypress Pond State Natural Area (1)

Deer Pond State Natural Area (1)

[Devil's Island State Fish and Wildlife Area](#)

Dog Island Wildlife Management Area (1)

Ferne Clyffe State Park – Cedar Draper Bluff Hunting Area (1)

Fort de Chartres State Historic Site (muzzleloading shotgun or archery only) (1)

Franklin Creek State Park (1)

Giant City State Park (1)

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Horseshoe Lake Conservation Area – Alexander County (controlled goose hunting area and public hunting area only) (1)

I-24 Wildlife Management Area (1)

Jubilee State Park (archery only) (1)

Kaskaskia River State Fish and Wildlife Area (except for that area lying north of Highway 154, east of the Kaskaskia River, and south of the Risdon School Road and Beck's Landing access road; a handicapped hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, may hunt at the site's designated handicapped hunting spot within this closed area. The hunting spot will be allocated on a first come-first served basis or via a drawing, if needed, held at the site office) (1)

Kinkaid Lake Fish and Wildlife Area (1)

Mark Twain National Wildlife Refuge, Gardner Division

Mississippi River Fish and Wildlife Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22, and 24

Nauvoo State Park (Max Rowe Unit only)

Oakford Conservation Area

Pere Marquette State Park (designated area only) (1)

Ray Norbut Fish and Wildlife Area (1)

Rend Lake Project Lands and Waters except Wayne Fitzgerald State Park

Saline County Fish and Wildlife Area (1)

Sanganois Conservation Area (site issued free permit required)

Sielbeck Forest State Natural Area (1)

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Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County Conservation Area – Firing Line Unit and Public Hunting Area only (1)

Weinberg-King State Park (1)

Weinberg-King State Park (Cecil White Unit)

Weinberg-King State Park (Markert Unit)

Wildcat Hollow State Forest (1)

- d) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.20. This permit is only valid for the specific site and season indicated on the permit.

Apple River Canyon State Park – Thompson and Salem Units (1)

Beaver Dam State Park

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (1)

Castle Rock State Park (1)

Clinton Lake State Recreation Area

Coffeen Lake State Fish and Wildlife Area

Crawford County Conservation Area

Dixon Springs State Park (youth ages 10-15 only) (1)

Falling Down Prairie State Natural Area (1)

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Ferne Clyffe Hunting Area (1)

Fort Massac State Park (Youth Ages 10-15 only) (1)

Fox Ridge State Park (1)

Green River State Wildlife Area (1)

Hamilton County Conservation Area

Hanover Bluff State Natural Area (1)

Harry "Babe" Woodyard State Natural Area (1)

Hidden Springs State Forest (first 2 seasons only) (1)

Horseshoe Lake State Park (Madison County)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein,
Chouteau Island Units

Hurricane Creek Habitat Area (must have Fox Ridge State Park permit)
(1)

Iroquois County State Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area (West Open Unit)

Johnson-Sauk Trail State Park (1)

Kankakee River State Park (hunting hours are from one-half hour before
sunrise until 12:00 noon) (1)

Kickapoo State Park (1)

Kishwaukee River State Fish and Wildlife Area

Lowden Miller State Forest (1)

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Mackinaw River Fish and Wildlife Area (1)

Marseilles Fish and Wildlife Area (site is open to hunting Monday through Thursday only; hunting hours are from one-half hour before sunrise until 8:30 a.m.; if space is available after site permit holders have checked in or if there have been no site specific permits issued, La Salle County permit holders who have an unfilled permit for the current season may be allowed on the site to hunt; if more La Salle County permit holders want to hunt than there are vacancies, a daily drawing at the site hunter check station will be held to determine who may enter the site to hunt) (1)

Marshall Fish and Wildlife Area (1)

Matthiessen State Park (South of Vermilion River Area) (1)

Mermet Lake State Fish and Wildlife Area (1)

Middlefork State Fish and Wildlife Management Area (1)

Mississippi Palisades State Park (closed during the fifth season) (1)

Momence Wetlands (1)

Newton Lake Fish and Wildlife Area

Pere Marquette State Park (Piasa, Quotoga, Potawatomi Camp Areas) (no hunting allowed on weekends)

Pyramid State Park (1)

Pyramid State Park – East Conant Unit

Ramsey Lake State Park (1)

Randolph County Conservation Area (a handicapped hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, wanting to hunt at one of the site's two designated handicapped hunting spots is not required to have a site-specific permit. These hunting spots will be allocated on a first come-first served basis or via a drawing, if

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needed, held at the site office) (1)

Red Hills State Park

Red Hills State Park/Chauncey Marsh

Sahara Woods (1)

Sam Dale Lake Conservation Area (1)

Sam Parr State Park

Sand Ridge State Forest

Sandy Ford State Natural Area

Sangamon County Conservation Area

Sanganois Conservation Area (Squirrel Timber Unit) (1)

Sangchris Lake State Park

Siloam Springs State Park (1)

Siloam Springs State Park (Buckhorn Unit) (1)

Spoon River State Forest (1)

~~Siloam Springs State Park (Scripps Unit) (1)~~

~~Snakeden Hollow Fish and Wildlife Area—Ives Unit (1)~~

Stephen A. Forbes State Park (1)

Tapley Woods State Natural Area (1)

Ten Mile Creek Fish and Wildlife Area

Washington County Conservation Area (hunting hours are from ½ hour before sunrise until 12:00 noon) (1)

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Weinberg-King State Park (Scripps Unit) (1)

Weldon Springs State Park – Piatt County Unit

Witkowsky State Wildlife Area (1)

Wolf Creek State Park (first 2 seasons only) (1)

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 710.70 Spring Youth Turkey Hunt

- a) Hunting Dates
- 1) Northern Zone: the Saturday and Sunday beginning 9 days prior to the opening date of the Northern Zone first spring turkey hunting season.
 - 2) Southern Zone: the Saturday and Sunday beginning 9 days prior to the opening date of the Southern Zone first spring turkey hunting season.
- b) Open Counties: All counties listed in Section 710.10 are open to Spring Youth Turkey Hunting.
- c) Eligibility: The Spring Youth Turkey Hunt is open only to Illinois residents under the age of 16 on the beginning date of the designated youth hunting days. All participating youths must have completed a Department-approved Hunter Education course.
- d) Permit Requirements – Spring Youth Turkey Hunt
- 1) All youth hunters must have a current, valid Youth Turkey Hunt Permit (\$10). For permit application and other information write to:

Illinois Department of Natural Resources
Youth Turkey Hunt
One Natural Resources Way
P.O. Box 19227
Springfield IL 62794-9227

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- 2) Each applicant must enclose a separate fee (check or money order) payable to the Department of Natural Resources or the application will be returned. Applicants should not send cash with their applications. The Department will not be responsible for cash sent through the mail.
 - 3) Each applicant must complete the official Department Youth Wild Turkey Permit application.
 - 4) Applications will be accepted through the second Monday in February.
 - 5) The applicants must not have had their hunting privileges suspended or revoked in this State or any other state.
 - 6) If more than one application for an Illinois Youth Turkey Hunt Permit is received from the same person, all applications submitted in that name will be rejected and permits revoked.
 - 7) A \$3 service fee will be charged for replacement permits issued by the Department.
 - 8) The Youth Turkey Hunt Permit shall be valid only for the dates and counties listed on the permit. Each youth must also possess a valid Illinois hunting license and Habitat Stamp prior to hunting, unless exempt. Hunting without a permit is a Class B misdemeanor [520 ILCS 5/2.9].
 - 9) A permit issued for the Youth Turkey Hunt will count toward the maximum number of permits (Section 710.20(j)) an individual can receive for the Spring Wild Turkey Season .
- e) Youth Turkey Hunting Regulations
- 1) Each Illinois Youth Turkey Hunt Permit holder is required to be accompanied afield by a parent/guardian or responsible adult who possesses a valid Firearm Owners Identification (FOID) Card. The accompanying adult must be present for the permit holder (youth) to hunt. The adult and/or adult caller is not allowed to hunt, but may accompany the youth hunter as a caller or observer. The supervising adult shall be criminally liable for the actions of the youth in the hunting party and shall be subject to the criminal penalties provided by law.

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- 2) All regulations prescribed by Section 710.30 of this Part apply during the Youth Turkey Hunt.
- f) The following sites will be open to holders of a valid Youth Turkey Hunt Permit for the county in which the site is located. Persons wishing to hunt one of the listed sites should contact that site prior to hunting for information about site regulations and restrictions.

Anderson Lake Fish and Wildlife Area

Apple River Canyon State Park – Thompson and Salem Units (1)

Argyle Lake State Park

Big Bend Fish and Wildlife Area (Whiteside County)

Big River State Forest

Castle Rock State Park

Falling Down Prairie State Natural Area (1)

Green River State Wildlife Area

Hanover Bluff State Natural Area (1)

Jim Edgar Panther Creek State Fish and Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area (West Open Unit)

Kankakee River State Park (The hunter or accompanying youth must obtain a site parking pass from the site office prior to hunting and must display it in the vehicle's windshield. Permits must be returned upon completion of the hunt and hunter effort and harvest reported.)

Kaskaskia River State Fish and Wildlife Area

Mackinaw River State Fish and Wildlife Area (1)

Mississippi River Area Pools 21, 22, 24, 25 and 26

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Momence Wetlands (The hunter or accompanying youth must obtain a site parking pass from the site office prior to hunting and must display it in the vehicle's windshield. Permits must be returned upon completion of the hunt and hunter effort and harvest reported.)

Nauvoo State Park (Max Rowe Unit Only)

Pere Marquette State Park (open area south of Graham Hollow Road only)
(1)

Ray Norbut Fish and Wildlife Area

Sangchris Lake State Park

Siloam Springs State Park

Siloam Springs State Park (Buckhorn Unit)

Snake Den Hollow State Fish and Wildlife Area (Ives Unit)

Turkey Bluffs State Fish and Wildlife Area

Weinberg-King State Park

Weinberg-King State Park (Cecil White Unit)

Weinberg-King State Park (Markert Unit)

Weinberg-King State Park (Scripps Unit)

Witkowsky State Wildlife Area (1)

(Source: Added at 29 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Special Wildlife Funds Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3060
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
3060.10	New Section
3060.20	New Section
3060.30	New Section
3060.40	New Section
3060.50	New Section
3060.60	New Section
3060.70	New Section
3060.80	New Section
- 4) Statutory Authority: Implementing and authorized by Section 805-70 of the Civil Administrative Code [20 ILCS 805/805-70]; Sections 1.28, 1.29, 1.31 and 1.32 of the Wildlife Code [520 ILCS 5/1.28, 1.29, 1.31 and 1.32]; the Habitat Endowment Act [520 ILCS 25]; and the Illinois Non-Game Wildlife Protection Act [30 ILCS 155].
- 5) A Complete Description of the Subjects and Issues Involved: This Part contains the administrative procedures for the Special Funds Grant Program. This grant program provides a variety of grants to managers of land, governmental entities, researchers, nonprofit organizations and individuals for the purpose of enhancing certain game and non-game wildlife habitat, land acquisition and education.
- 6) Will this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

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Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Entities eligible to apply for grants include managers of land, governmental entities, researchers, nonprofit organizations and individuals.
 - B) Reporting, bookkeeping or other procedures required for compliance: Grantees shall provide a written final report to the Department no later than 30 days following the ending date of the agreement. For multiple year projects, the Department may require Grantees to submit an annual progress report. Grantees shall keep records relating to the administration of the project; maintain detailed information on the project and provide the Department access for inspection and auditing of projects.
 - C) Types of professional skills necessary for compliance: Knowledge of game and non-game habitat, land acquisition and land management.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2004

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

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TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3060
SPECIAL WILDLIFE FUNDS GRANT PROGRAM

Section	
3060.10	Overview
3060.20	Definitions
3060.30	Illinois Habitat Fund Grant Program
3060.40	State Pheasant Fund Grant Program
3060.50	State Furbearer Fund Grant Program
3060.60	State Migratory Waterfowl Stamp Fund Grant Program
3060.70	Illinois Wildlife Preservation Fund Grant Program
3060.80	General Requirements

AUTHORITY: Implementing and authorized by Section 805-70 of the Civil Administrative Code [20 ILCS 805/805-70]; Sections 1.28, 1.29, 1.31 and 1.32 of the Wildlife Code [520 ILCS 5/1.28, 1.29, 1.31 and 1.32]; the Habitat Endowment Act [520 ILCS 25]; and the Illinois Non-Game Wildlife Protection Act [30 ILCS 155].

SOURCE: Adopted at 29 Ill. Reg. _____, effective _____.

Section 3060.10 Overview

- a) The Department of Natural Resources receives fees derived from the sale of State Habitat Stamps and State Migratory Waterfowl Stamps and through a voluntary check-off designation on State income tax return forms. These monies are deposited in several funds: Illinois Habitat Fund, State Pheasant Fund, State Furbearer Fund, State Migratory Waterfowl Stamp Fund and the Illinois Wildlife Preservation Fund. These funds are to be used by the Department in accordance with the statutes that establish the funds.
- b) The Special Wildlife Funds Grant Program provides a variety of grants from the Special Wildlife Funds to managers of land, governmental entities, researchers, nonprofit organizations and individuals for the purpose of enhancing game and non-game wildlife habitat; land acquisition; and education. Special Wildlife Funds may also be used in accordance with applicable statutes for projects and

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activities undertaken by the Department. This Part does not limit, affect or apply to the authority of the Department to use the Special Wildlife Funds for its own projects and activities in accordance with applicable statutes.

Section 3060.20 Definitions

"Appropriate Not-For-Profit Organization" means a not-for-profit organization authorized to conduct affairs in Illinois with one of its purposes as stated in its Articles of Incorporation or Bylaws being the support, development, conservation or promotion of wild pheasants (State Pheasant Fund), wild waterfowl (State Migratory Waterfowl Stamp Fund) or wild fur-bearing mammals (State Furbearer Fund), or the management of habitat for future generations (Illinois Habitat Fund).

"Cooperator" means any landowner participating in the benefits from a Special Wildlife Funds grant. The cooperator may or may not be enrolled in a federal or State conservation program that is also to be receiving a benefit from a Special Wildlife Funds grant.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Department.

"Enhance" means to make better in quality or value.

"Farm Program" means any State or federal program that provides financial incentives to landowners who participate in conservation programs intended to reduce erosion, guard streams and rivers, restore and establish wildlife habitat and improve air and water quality, such as the U.S. Department of Agriculture's Conservation Reserve and Wetland Reserve Programs, the Department's Conservation Reserve Enhancement Program, etc.

"Grantee" means the successful applicant for funding of a project from one of the Special Wildlife Funds.

"Habitat" means all wetlands, woodlands, grasslands and agricultural lands, natural or altered, that support or have the potential to support populations of wild animals in any or all phases of their life cycles.

"Manage" means to direct or control the use of.

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"Managers of Land" means any appropriate not-for-profit organization or governmental agency that has the expertise, the equipment, adequate staff/workforce and permission from the landowner (if applicable) to develop and/or manage habitat.

"Mississippi Flyway" means the states of Minnesota, Wisconsin, Michigan, Ohio, Indiana, Illinois, Iowa, Missouri, Arkansas, Kentucky, Tennessee, Alabama, Mississippi and Louisiana and the Canadian provinces of Saskatchewan, Manitoba and Ontario.

"Non-Game Wildlife" means any wildlife species that are not commonly pursued, killed, or consumed either for sport or profit, except house sparrow, European starling, domestic pigeon and species not indigenous to the State of Illinois.

"North American Waterfowl Management Plan" is a coordinated effort by individuals, organizations and agencies of the three countries (Canada, U.S. and Mexico) to conserve wetlands and increase waterfowl and wetland bird populations. It promotes joint ventures that are partnerships that protect, restore and enhance wetlands, uplands and riparian areas; manage habitat for waterfowl, shorebirds, non-waterfowl migratory birds and endangered species; improve water quality through watershed protection; and seek profitable agriculture and abundant wildlife.

"Person" means any individual, group, organization or entity.

"Perpetuate" means to prolong the existence of non-game wildlife and/or native plant resources through direct activities or through educating members of the general public on protection and preservation of these life forms.

"Preserve" means to maintain in safety from injury, peril or harm and to keep in perfect or unaltered condition and maintain unchanged.

"Project" means a proposal and follow-up activity for a habitat acquisition or development or education project as described on the application for assistance from one of the Special Wildlife Funds.

"Protect" means to keep from being damaged, attacked, stolen or injured.

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"Public Access" means the right of the general public to approach, enter, exit or make use of.

"Public Use" means the right of the general public to utilize, with or without paying a fee.

"Special Wildlife Funds" means the Illinois Habitat Fund, State Pheasant Fund, State Furbearer Fund, State Migratory Waterfowl Stamp Fund or the Illinois Wildlife Preservation Fund.

"Wildlife" means any fauna living in a natural state without the direct care of man (i.e., captive, cultivated, etc.).

Section 3060.30 Illinois Habitat Fund Grant Program

- a) Eligibility Requirements
 - 1) Eligible recipients are limited to managers of land.
 - 2) Eligible projects are limited to those seeking to preserve, protect, acquire or manage habitat in Illinois.
- b) Application Procedures
 - 1) Grant applications for funding assistance under this program shall be submitted to the Department at One Natural Resources Way, Springfield, Illinois 62702-1271, Attention: Office of Resource Conservation. The application deadline will be publicly announced by the Department. Application forms and instructions are available through the Department. Applications received after the application deadline will be returned to the applicant and not considered by the Department.
 - 2) Applications shall contain all of the following required information:
 - A) the name of the applicant
 - B) the name of a contact person
 - C) a daytime telephone number and e-mail address (if available) for a contact person

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- D) a comprehensive project description with justification, including:
 - i) wildlife to benefit from the project
 - ii) plan for implementation
 - iii) map of project area
 - iv) amount of habitat to be established or managed, including species to be planted or eliminated
 - v) if with cooperators, plat map showing each property to be developed and a copy of a farm program contract for each committed cooperator involved in the project or estimated acreage. (Committed cooperators will be given priority over estimated acreage.)
 - E) comprehensive plan for the operation and maintenance of the project, including supervision, estimated costs (including any and all fees) and storage location, if applicable
 - F) a comprehensive funding/budget summary, including:
 - i) actual cash contributions other than the grant amount
 - ii) documented purchase price of equipment or commodities
 - G) description of plan for general public access or use (or lack thereof)
 - H) signature of the applicant or authorized individual for applicant
- c) Project Evaluation and Procedures
- 1) All applications received on time and containing the information required by the application packet will be reviewed by Department staff. Incomplete applications will be returned to the applicant for completion and resubmittal. Submitting an incomplete application does not extend the application deadline beyond the designated deadline date. All applications

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will be forwarded to the Illinois Habitat Fund Advisory Committee for funding recommendations.

- 2) The Illinois Habitat Fund Advisory Committee shall evaluate and prioritize each application according to the following criteria: completed application, past grant performance of the applicant, eligibility, feasibility, adverse impacts, quality of the proposed habitat, priority for the Department, the applicant's cost-share match and the applicant's plan for general public access to and/or use of the proposed habitat development or equipment purchase. The Committee shall provide to the Director all applications and a prioritized list of recommended projects deemed to be consistent with the purposes of the Illinois Habitat Fund.
- 3) The Director shall make the determination of what grants shall be awarded after considering the recommendations of the Illinois Habitat Fund Advisory Committee. Applicants shall be notified of the Director's decision.

Section 3060.40 State Pheasant Fund Grant Program

- a) Eligibility Requirements
 - 1) Eligible recipients are limited to appropriate not-for-profit organizations.
 - 2) Eligible projects are limited to projects with the purpose of wild pheasant conservation. The projects may include land acquisition, pheasant habitat improvement on public or private land, pheasant research or education of the public regarding pheasants and pheasant hunting.
- b) Application Procedures
 - 1) Grant applications for funding assistance under this program shall be submitted to the Department at One Natural Resources Way, Springfield, Illinois 62702-1271, Attention: Office of Resource Conservation. The application deadline will be publicly announced by the Department. Application forms and instructions are available through the Department. Applications received after the deadline will be returned to the applicant and not considered by the Department.
 - 2) Applications shall contain all of the following required information:

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- A) the name of the applicant
- B) the name of a contact person
- C) a daytime telephone number and e-mail address (if available) for a contact person
- D) a comprehensive project description with justification, including:
 - i) plan for implementation
 - ii) map of project area
 - iii) number of acres to be improved
 - iv) amount of habitat to be established or managed, including species to be planted or eliminated
 - v) if with cooperators, plat map showing each property to be developed and copy of a farm program contract for each committed cooperator involved in the project or estimated acreage. (Committed cooperators will be given priority over estimated acreage.)
 - vi) target audience for education projects, with objectives, methodology, measurable outcomes and products resulting from the project that can be used after completion
- E) comprehensive plan for the operation and maintenance of the project, including supervision, estimated costs (including any and all fees) and storage location, if applicable
- F) a comprehensive funding/budget summary, including:
 - i) actual cash contributions other than the grant amount
 - ii) documented purchase price of equipment or commodities

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- G) description of plan for general public access or use (or lack thereof)
 - H) signature of the applicant or authorized individual for applicant
- c) Project Evaluation and Procedures
- 1) All applications received on time and containing the information required by the application packet will be reviewed by Department staff. Incomplete applications will be returned to the applicant for completion and resubmittal. Submitting an incomplete application does not extend the application deadline beyond the designated deadline date. All applications will be forwarded to the State Pheasant Committee for funding recommendations.
 - 2) The State Pheasant Committee shall evaluate and prioritize each application according to the following criteria: completed application, past grant performance of the applicant, eligibility, feasibility, adverse impacts, quality of the proposed habitat, priority for the Department, the applicant's cost-share match and the applicant's plan for general public access to and/or use of the proposed habitat development or equipment purchase. The Committee shall provide to the Director all applications and a prioritized list of recommended projects deemed to be consistent with the purposes of the State Pheasant Fund.
 - 3) The Director shall make the determination of what grants shall be awarded after considering the recommendations of the State Pheasant Committee. Applicants shall be notified of the Director's decision.

Section 3060.50 State Furbearer Fund Grant Program

- a) Eligibility Requirements
 - 1) Eligible recipients are limited to appropriate not-for-profit organizations, governmental entities, educational institutions, corporations, or universities.
 - 2) Eligible projects are limited to those that educate hunters and trappers of fur-bearing mammals within the State and the general public concerning the role that hunting and trapping has upon fur-bearing mammals.

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management, concerning the laws associated with the harvesting of fur-bearing mammals; the techniques used in the hunting and trapping of fur-bearing mammals; the conservation, management and ecology of fur-bearing mammals; and the promotion of products made from wild fur-bearing mammals.

b) Application Procedures

- 1) Grant applications for funding assistance under this program shall be submitted to the Department at One Natural Resources Way, Springfield, Illinois 62702-1271, Attention: Office of Resource Conservation. The application deadline will be publicly announced by the Department. Application forms and instructions are available through the Department. Applications received after the deadline will be returned to the applicant and not considered by the Department.
- 2) Applications shall contain all of the following required information:
 - A) the name of the applicant
 - B) the name of a contact person
 - C) a daytime telephone number and e-mail address (if available) for a contact person
 - D) a comprehensive project description with justification, including:
 - i) furbearers to benefit from the project
 - ii) the target audience, with objectives, methodology, measurable outcomes and products resulting from the project that can be used after completion
 - E) a comprehensive funding/budget summary, including:
 - i) actual cash contributions other than the grant amount
 - ii) documented purchase price of equipment or commodities
 - F) signature of the applicant or authorized individual for applicant

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- c) Project Evaluation and Procedures
 - 1) All applications received on time and containing the minimum required information will be reviewed by Department staff. Incomplete applications will be returned to the applicant for completion and resubmittal. Submitting an incomplete application does not extend the application beyond the application deadline. All applications will be forwarded to the State Furbearer Committee for funding recommendations.
 - 2) The State Furbearer Committee shall evaluate and prioritize each application according to the following criteria: completed application, past grant performance of the applicant, eligibility, feasibility, adverse impacts, priority for the Department and the applicant's cost-share match. The Committee shall provide to the Director all applications and a prioritized list of recommended projects deemed to be consistent with the purposes of the State Furbearer Fund.
 - 3) The Director shall make the determination of what grants shall be awarded after considering the recommendations of the State Furbearer Committee. Applicants shall be notified of the Director's decision.

Section 3060.60 State Migratory Waterfowl Fund Grant Program

- a) Eligibility Requirements
 - 1) Eligible recipients are limited to appropriate not-for-profit organizations.
 - 2) Eligible projects are limited to development of waterfowl propagation areas within the Dominion of Canada or the United States that specifically provide waterfowl for the Mississippi Flyway and projects to implement the North American Waterfowl Management Plan for the development of waterfowl areas within the Dominion of Canada or the United States that specifically provide waterfowl for the Mississippi Flyway.
- b) Application Procedures
 - 1) Grant applications for funding assistance under this program shall be submitted to the Department at One Natural Resources Way, Springfield,

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Illinois 62702-1271, Attention: Office of Resource Conservation. The application deadline will be publicly announced by the Department. Application forms and instructions are available through the Department. Applications received after the deadline will be returned to the applicant and not considered by the Department.

- 2) Applications shall contain all of the following required information:
- A) the name of the applicant
 - B) the name of a contact person
 - C) a daytime telephone number and e-mail address (if available) for a contact person
 - D) a comprehensive project description with justification, including:
 - i) waterfowl to benefit from the project
 - ii) plan for implementation
 - iii) map of project area
 - iv) number of acres to be improved
 - v) if with cooperators, plat map showing each property to be developed and copy of a farm program contract for each committed cooperator involved in the project or estimated acreage. (Committed cooperators will be given priority over estimated acreage.)
 - vi) evidence the project is acceptable to the appropriate governmental entity having jurisdiction over the lands and waters affected by the project
 - E) comprehensive plan for the operation and maintenance of the project, including supervision, estimated costs (including any and all fees) and storage location, if applicable
 - F) a comprehensive funding/budget summary, including:

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- i) actual cash contributions other than the grant amount
 - ii) documented purchase price of equipment or commodities
 - G) description of plan for general public access or use (or lack thereof)
 - H) signature of the applicant or authorized individual for applicant
- c) Project Evaluation and Procedures
- 1) All applications received on time and containing the minimum required information will be reviewed by Department staff. Incomplete applications will be returned to the applicant for completion and resubmittal. Submitting an incomplete application does not extend the application beyond the application deadline. All applications will be forwarded to the State Duck Stamp Committee for funding recommendations.
 - 2) The State Duck Stamp Committee shall evaluate and prioritize each application according to the following criteria: completed application, past grant performance of the applicant, eligibility, feasibility, adverse impacts, quality of the proposed habitat, priority for the Department, the applicant's cost-share match and the applicant's plan for general public access to and/or use of the proposed habitat development or equipment purchase. The Committee shall provide to the Director all applications and a prioritized list of recommended projects deemed to be consistent with the purposes of the State Migratory Waterfowl Stamp Fund.
 - 3) The Director shall make the determination of what grants shall be awarded after considering the recommendations of the State Duck Stamp Committee. Applicants shall be notified of the Director's decision.

Section 3060.70 Illinois Wildlife Preservation Fund Grant Program

- a) Eligibility Requirements
 - 1) Eligible recipients are limited to persons.

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- 2) Eligible projects are limited to those seeking to preserve, protect, perpetuate or enhance non-game wildlife and/or native plant resources in Illinois through research, management or education.
 - 3) Grants shall be limited to a maximum of \$2,000.
- b) Application Procedures
- 1) Grant applications for funding assistance under this program shall be submitted to the Department at One Natural Resources Way, Springfield, Illinois 62702-1271, Attention: Office of Resource Conservation. The application deadline will be publicly announced by the Department. Application forms and instructions are available through the Department. Applications received after the deadline will be returned to the applicant and not considered by the Department.
 - 2) Applications shall contain all of the following required information:
 - A) the name of the applicant
 - B) the name of a contact person
 - C) a daytime telephone number and e-mail address (if available) for a contact person
 - D) a comprehensive project description with justification, including:
 - i) species to be preserved, protected, perpetuated or enhanced
 - ii) plan for implementation, operation and maintenance
 - iii) property location and map of property and any neighboring habitat linkage, if applicable
 - iv) number of acres to be improved, preserved or protected
 - E) a comprehensive funding/budget summary, including:
 - i) actual cash contributions other than the grant amount

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- ii) labor equity contributions
- iii) documented price of equipment or commodities
- F) signature of the applicant or authorized individual for applicant
- c) Project Evaluation and Procedures
 - 1) All applications received on time, postmarked no later than the application deadline date and containing the minimum required information will be reviewed by Department staff. Incomplete applications will be returned to the applicant for completion and resubmittal. Submitting an incomplete application does not extend the application beyond the application deadline. Department staff will select those projects that they determine best fit the purposes of the fund and prepare a prioritized list of projects recommended for funding. Staff will consider the following in making recommendations: completed application, deadline met, past grant performance of applicant, eligibility, feasibility, habitat quality on the property, adverse impacts and priority for the Department.
 - 2) The Director shall make the determination of what grants shall be awarded. Applicants shall be notified of the Director's decision.

Section 3060.80 General Requirements

- a) Grant Compliance
 - 1) All grant recipients shall enter into an agreement in form and substance acceptable to the Department.
 - 2) Grant funds for projects approved through the Special Wildlife Funds Grant Program may be made available for expenditure by a grantee for a period no longer than 2 years, except where such grant funds are disbursed in reimbursement of costs previously incurred by the grantee.
 - 3) Acknowledgment of Funding Source
 - A) The grantee shall give proper credit to the appropriate Special Wildlife Fund and coordinate with the Department on any publication, written document, news article, television and radio

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release, interview or personal presentation, if initiated by the grantee, which refers to the project.

- B) The grantee shall post a sign, include a logo or affix a decal, if practical and applicable, crediting the applicable Special Wildlife Fund. Signs and decals shall be supplied by the Department. The appropriate Advisory Committee will provide guidance to the grantee for posting of signs and decals on projects awarded under its Special Wildlife Fund.

4) Reporting Requirements

- A) A grantee shall provide a written Final Report to the Department no later than 30 days following the ending date of the agreement. The Final Report shall include a description of project accomplishments and the locations and dates where the project was accomplished and shall detail all obligations and expenditures made under the grant agreement. The Final Report is to be in form and substance acceptable to the Department.
- B) For multiple year projects, the Department may require the grantee to submit an Annual Progress Report for each year during which the project is active. Annual Progress Reports shall include the same information listed in subsection (a)(4)(A) for the Final Report as pertains to the current year. The Annual Progress Report is to be in form and substance acceptable to the Department.
- C) Failure to provide the Final Report or Annual Progress Report in a timely fashion may render the grantee ineligible to receive payments under the current award or make them ineligible for future awards. Deadlines for reports may be extended for just cause when requests are submitted in writing at least 2 weeks prior to the deadline.

5) Financial Management

- A) The grantee shall keep adequate records relating to its administration of a project, particularly relating to all incurred costs. All assets acquired through Special Wildlife Funds shall be accounted for. These records shall be available for audit by

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appropriate personnel of the Department and the State Auditor General. All records shall be retained in accordance with State laws.

- B) Any funds (including any interest earned) not expended or legally obligated at the completion of the project or at the end of the agreement, whichever is earlier, shall be returned to the Department within 45 days to be deposited in the applicable Special Wildlife Fund. If the purchase is initiated and documented by a written purchase order or invoice prior to the end of the term of the agreement and payment is made within 30-60 days, the expense is allowable.
 - C) Interest earned on funds received as an advance payment shall become part of the project principal and may only be used for eligible activities.
 - D) Any expenditure that does not comply with the grant agreement shall be disallowed and shall be returned to the Department for deposit into the applicable Special Wildlife Fund.
- 6) Whenever a grantee violates this Part, it shall be ineligible for further assistance for a period of 2 years.
- b) Equipment
- 1) Equipment that specifically establishes habitat, such as native grass drills, tree planters, seeders, sprayers, tillers, disks, mowers and tractors are eligible to be purchased with Special Wildlife Funds. Vehicles such as trucks, all-terrain vehicles (ATVs), etc., are not eligible for Special Wildlife Funds.
 - 2) Grantees will be responsible for the maintenance of any equipment purchased through the Special Wildlife Funds Grant Program.
 - 3) Equipment is to be kept safe and secure by the grantee.
 - 4) Equipment is to be available for use by the general public for habitat development and management.

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- 5) The grantee may charge a fee for the use of the equipment. Rental fees shall not exceed \$3/acre for habitat development equipment such as native grass drills, tree planters, seeders, sprayers, tillers, disks, mowers, tractors or other planting equipment purchased with Special Wildlife Funds. Rental fees shall be disclosed with the application for funding assistance in purchasing the equipment. All monies collected as rental fees shall be used solely to maintain the equipment for which they are charged. The rental fees charged and received by the grantee shall also be disclosed on the reporting of the use of that equipment. No other fees beyond a rental fee may be charged by the grantee for use of the equipment.
- 6) The grantee shall submit a written log on the use of any equipment purchased with Special Wildlife Funds. The written log shall be in form and substance acceptable to the Department. The written log shall include a description of the location and type of habitat management accomplished, the cooperator's name and a quantitative measure of the equipment usage. This written log shall be submitted by December 31 during each of the first 5 years following the project award. These written logs shall suffice as the Annual Progress Reports required in subsection (a)(4)(B) if the equipment purchase was the only aspect of the project.
- 7) Equipment purchased shall become the property and the responsibility of the grantee unless specified otherwise in the agreement.
- 8) Whenever it has been determined by the grantee and the Department that equipment acquired with Special Wildlife Funds assistance is no longer needed for the project purpose, or that the grantee has other good cause, the equipment, with the approval of the Department, may be disposed of in accordance with one of the following methods:
 - A) Equipment may be transferred at no charge at any time with the approval of the Department to another governmental agency or not-for-profit organization to use in accordance with the original project purpose.
 - B) Equipment held more than 5 years may be retained, sold or otherwise disposed of with no further obligation to the Department.
 - C) When equipment is held less than 5 years and not transferred in accordance with subsection (b)(8)(A), the grantee shall forfeit its

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interest in the equipment and shall deliver the equipment to the Department.

c) Habitat Development

- 1) On habitat development projects where other governmental or private funding programs are involved, the grantee is required to provide the following detailed information:
 - A) cooperator names and addresses and locations of the habitat affected (Township, Range, Section and County);
 - B) number of acres enhanced by the grant;
 - C) type of eligible conservation practice completed;
 - D) the funding amount of other cost sharing provided and the name of the cost share provider;
 - E) a copy of any farm program contract or other pertinent document identifying the amount of cost-share being provided; and
 - F) length of time committed to maintain the developed habitat area.
- 2) The grantee cannot charge fees for service or require membership to participate in the benefits of a project funded through Special Wildlife Fund grants except as specifically authorized by this Part.
- 3) Habitat development projects are to identify the species to be planted.

d) Inspection and Auditing of Projects

- 1) The Department shall be authorized to enter and cross properties affected by the Special Wildlife Funds grant program to inspect progress and monitor grantee compliance, in accordance with the authorities granted it through the Civil Administrative Code of Illinois [20 ILCS 805/805-530].
- 2) The Department shall develop a standardized inspection report for use by Department personnel when inspecting any project site. The inspection report shall become part of the public record.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Electronic Fund Transfers
- 2) Code Citation: 38 Ill. Adm. Code 315
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
315.420	New
315.430	New
- 4) Statutory Authority: Implementing and authorized by Section 20(1) of the Electronic Fund Transfer Act [205 ILCS 616/20(1)].
- 5) Effective Date of Rulemaking: October 27, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Division of Banks and Real Estate's principal office and is available for public inspection.
- 9) Notices of Proposal Published in Illinois Register: 28 Ill. Reg. 9804; 7/16/04
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The provisions in Section 315.420 concerning out-of-state banks establishing deposit-taking terminals in Illinois now contain a reciprocity requirement. The provisions in Section 315.430 concerning the notice provided in connection with the reverse PIN explain when the notice shall be given and define customer.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The amendments adopt language that will grant banks chartered by another state parity with national banks, savings banks, savings and loan associations, and credit unions in their ability to establish deposit-taking terminals

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within Illinois. In addition, Public Act 93-273 requires the Commissioner to promulgate rules regarding terminals equipped with programming that would send an alarm to local law enforcement if a customer inputs his or her personal identification number in reverse order. These amendments adopt language that requires a bank with terminals so equipped to notify their customers and local law enforcement of the location of such terminals and their programming.

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

Kraig Lounsberry
Legislative Liaison
Illinois Department of Financial and Professional Regulation
Division of Office of Banks and Real Estate
500 E. Monroe Street
Springfield, IL 62701

217/782-6167

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

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

PART 315

ELECTRONIC FUND TRANSFERS

SUBPART A: DEFINITIONS

Section
315.110 Definitions

SUBPART B: ARBITRATION OF DISPUTES

Section
315.210 Scope and Authority (Repealed)
315.220 Statement of Claim, Response and Reply (Repealed)
315.230 Motions (Repealed)
315.240 Appearances (Repealed)
315.250 Appointment of Hearing Officer (Repealed)
315.260 Service (Repealed)
315.270 Procedures (Repealed)

SUBPART C: FEES FOR THE EXAMINATION OF NETWORKS AND SWITCHES

Section
315.310 Fees and Charges

SUBPART D: TERMINALS

Section
315.410 Requirements for Surcharge Signage
315.420 Acceptance of Deposits
315.430 Reverse Order Personal Identification Number Programming

AUTHORITY: Implementing Section 50(e) of the Electronic Fund Transfer Act [205 ILCS 616/50(e)] and authorized by Section 20(1) of the Electronic Fund Transfer Act [205 ILCS 616/20(1)].

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SOURCE: Adopted at 20 Ill. Reg. 10832, effective August 1, 1996; amended at 24 Ill. Reg. 4932, effective March 10, 2000; amended at 28 Ill. Reg. 1053, effective January 5, 2004; amended at 28 Ill. Reg. _____, effective _____.

AGENCY NOTE: 38 Ill. Adm. Code 310, Electronic Fund Transfers, was repealed and this Part 38 Ill. Adm. Code 315, Electronic Fund Transfers, was adopted at 20 Ill. Reg. 10832, effective August 1, 1996.

SUBPART D: TERMINALS

Section 315.420 Acceptance of Deposits

In order to maintain parity, any financial institution, the deposits in which are insured by an agency or instrumentality of the federal government, may establish or own a terminal in this State that accepts deposits of funds to an account if the main office of such financial institution is located in a state that would permit, under terms no more restrictive than those imposed in Illinois, a financial institution organized under the Illinois Banking Act to establish or own a terminal in that state that accepts deposits of funds to an account.

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

Section 315.430 Reverse Order Personal Identification Number Programming

Pursuant to subsection (i) of Section 50 of the Act [205 ILCS 5/50(i)], an owner or operator of a terminal in this State may, but is not required to, design and program the terminal so that when a consumer enters his or her personal identification number in reverse order, the terminal automatically sends an alarm to the local law enforcement agency in whose jurisdiction the terminal is located. An owner or operator of a terminal that chooses to program their terminal in this manner shall inform their customers and local law enforcement of the location of the terminal and its programming. This notice shall be given at the time an access device is issued and on an annual basis thereafter. The notice may be included with other disclosures that must be furnished to customer, such as disclosures under the federal Electronic Fund Transfer Act or the Consumer Deposit Account Act. For purposes of this Section, customer includes any individual who has obtained an access device from the owner or operator.

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

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Background Checks and Mercury Compliance
- 2) Code Citation: 83 Ill. Adm. Code 535
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
535.10	New Section
535.20	New Section
535.100	New Section
535.200	New Section
535.210	New Section
535.220	New Section
535.230	New Section
535.240	New Section
- 4) Statutory Authority: Implementing and authorized by Sections ~~8-101, 8-501, 8-501.5, 8-505,~~ and 8-505.5 of the Public Utilities Act [220 ILCS 5/8-~~101, 8-501, 8-501.5 and 8-505,~~ 8-505.5]
- 5) Effective Date of Rules: November 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 4/2/04; 28 Ill. Reg. 5567
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version:
Section 535.100(a): Change "the effective date of this Part" to "November 1, 2004".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect? No

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: P.A. 92-71 added Sections 8-501.5 and 8-505.5 to the Public Utilities Act. Section 8-501.5 requires the Commission to adopt rules establishing certification requirements that utilities must obtain for past safety or environmental violations from proposed employees or independent contractors that perform work on facilities involving the distribution of natural gas. Section 8-505.5 requires the Commission to set forth rules that require public utilities to test for mercury before and after work is performed on regulators or manometers that contain mercury. These rules implement those provisions. Subpart B sets out the requirements for the background checks. Subpart C sets out the procedures to be followed by the utilities, including the technical specifications to be used.
- 16) Information and questions regarding these adopted rules shall be directed to:

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

(217)785-3922

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

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NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER d: GAS UTILITIES

PART 535
BACKGROUND CHECKS AND MERCURY COMPLIANCE

SUBPART A: GENERAL

Section
535.10 Definitions
535.20 Application

SUBPART B: BACKGROUND CHECKS

Section
535.100 Background Checks

SUBPART C: MERCURY COMPLIANCE

Section
535.200 Work Performed on Regulators and Manometers
535.210 Reporting Mercury Tests
535.220 Mercury Reports to the Commission
535.230 Mercury Vapor Air Sample Test Result in Excess of Allowed Levels
535.240 Certification of Equipment

AUTHORITY: Implementing and authorized by Sections 8-501.5 and 8-505.5 of the Public Utilities Act [220 ILCS 5/8-501.5, 8-505.5].

SOURCE: Adopted at 28 Ill. Reg. 14793, effective November 1, 2004.

SUBPART A: GENERAL

Section 535.10 Definitions

"Act" means the Public Utilities Act [220 ILCS 5].

"Commission" means the Illinois Commerce Commission.

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"Confirmed reading" means a mercury vapor sample test result that was obtained in the absence of any interference or one that was obtained by an alternative mercury vapor analyzer in those cases where an interference exists.

"Emergency" means a potentially life-threatening situation.

"Independent contractor" means any sole proprietor, partnership, limited liability partnership, limited liability company, or corporation subject to a contract or other agreement regarding the performance of work, as defined in this Section, on public utility equipment.

"Pertinent safety law" refers to federal pipeline safety regulations and Occupational Health and Safety Administration standards associated with the construction, installation, maintenance, or operation of underground utilities or natural gas distribution facilities.

"Pertinent environmental law" refers to Illinois Environmental Protection Agency standards, Illinois Department of Public Health standards, and federal environmental standards associated with the construction, installation, maintenance, or operation of underground utilities or natural gas distribution facilities.

"Public utility" means the same as that term is defined in Section 3-105 of the Act [220 ILCS 5/3-105].

"Violation" means any final order issued by any federal or State court or agency of competent jurisdiction or written stipulation, admission, agreed settlement, or consent order containing an admission of liability for the violation, entered into within the last five years prior to the hiring, promoting, or transfer date as set forth in Section 535.100.

"Work" means any maintenance, replacement, or inspection of public utility equipment by a public utility or by a contractor for a public utility. "Work" shall not include meter readings and inspections of public utility equipment that only involve observations or taking readings.

Section 535.20 Application

This Part establishes the procedures for completing certificates that a public utility shall require from employees or contractors before any work is performed by these employees or contractors

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on a facility used for the distribution of natural gas and the procedures for the conducting of mercury vapor tests and the use of mercury vapor testing equipment by the public utility, its agents, or its contractors.

SUBPART B: BACKGROUND CHECKS

Section 535.100 Background Checks

- a) *Before hiring, promoting, or transferring an employee to perform work on facilities used for the distribution of natural gas to customers, a public utility shall require each employee or potential employee to complete a certificate listing violations of pertinent safety or environmental laws by the employee or potential employee. Exempt from this requirement are current employees of public utilities who were in positions with the public utilities that involved work on facilities used for the distribution of natural gas to customers of these public utilities on November 1, 2004. Also exempt are employees who are being transferred or promoted from a position requiring a certificate to another position requiring a certificate. [220 ILCS 5/8-501.5]*
- b) *Before hiring an independent contractor to perform work involving facilities used for the distribution of natural gas to customers, a public utility shall require an owner or officer of the independent contractor to provide certificates listing violations of pertinent safety or environmental laws by the independent contractor. [220 ILCS 5/8-501.5]*
- c) A certificate of violations of pertinent safety and environmental laws violations completed by a potential public utility employee or current public utility employees who receive a promotion or transfer to a position described in subsection (a) shall contain the following information:
 - 1) The name of applicant or employee;
 - 2) The applicant or employee's declaration of violations of pertinent safety and environmental laws, including the date of the violation and the amount of any penalty or fine assessed because of the violation;
 - 3) A verified statement that the applicant or employee is providing truthful information;

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- 4) Notice to the applicant or employee that willful omissions of information from this certificate are grounds for employment termination; and
 - 5) The applicant or employee's dated signature.
- d) A certificate of violations of pertinent safety and environmental laws completed by an owner or officer of the independent contractor shall contain the following information:
- 1) Identification of the specific public utility contract being sought by the independent contractor;
 - 2) The name and address of the independent contractor;
 - 3) The name and position held in the independent contractor by the person completing the certificate;
 - 4) The independent contractor's declaration of violations of pertinent safety and environmental laws, including the date of the violation and the amount of any penalty or fine, if any, assessed because of the violation;
 - 5) A verified statement that the representative of the independent contractor is providing truthful information;
 - 6) Notice to the independent contractor that willful omissions of information from this certificate are grounds for contract termination; and
 - 7) The dated signature of the independent contractor owner or officer completing the certificate.
- e) A public utility shall retain completed certificates of violations of pertinent safety and environmental laws and shall make these records available for inspection by the Commission.
- 1) A public utility shall keep a certificate completed by an independent contractor hired by the public utility for five years after the creation of the certificate;
 - 2) A public utility shall keep certificates completed by its own employees for five years after employment termination.

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- f) Information provided in the certificates referred to in subsections (c) and (d) shall be considered by these public utilities in making employment decisions regarding those individuals or entities furnishing these certificates to these public utilities.
- g) Independent contractors hired by the public utility shall provide new certificates annually.

SUBPART C: MERCURY COMPLIANCE

Section 535.200 Work Performed on Regulators and Manometers

- a) Prior to performing work at a customer location on a mercury-containing regulator or manometer used in providing natural gas service, a public utility shall test the air for mercury vapor in at least two locations: one location one foot above or away from the regulator or manometer and another location within three to five feet above the floor for indoor meters, or three to five feet above ground level for outdoor meters, immediately adjacent to the regulator or manometer.
- b) After performing the work on a mercury-containing regulator or manometer used to provide natural gas service, a public utility shall test the air for mercury vapor at the same locations used for air sampling prior to performing the work on the regulator or manometer.
- c) A public utility shall consider a confirmed reading at, or in excess, of the following levels as a positive indication of mercury.
 - 1) 0.003 milligrams (3 micrograms) per cubic meter of air for mercury vapor air sample tests conducted inside of a residential customer location.
 - 2) 0.010 milligrams (10 micrograms) per cubic meter of air for mercury vapor air sample tests conducted at non-residential locations and outside of a residential customer location.
- d) When testing for mercury vapor, a public utility shall use mercury vapor testing equipment capable of detecting the presence of mercury at the levels required by subsection (c).
- e) A public utility shall use mercury vapor testing equipment in accordance with the guidelines set forth by the manufacturer of the equipment.

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- f) A public utility shall not perform any mercury vapor air sample tests under conditions that would counter the manufacturer's recommendations for use of the mercury vapor test equipment except for the following reasons:
- 1) A public utility may perform work on mercury-containing regulators or manometers located outdoors without conducting the required mercury vapor test if conditions are not suitable for accurate readings from its mercury vapor test equipment, but shall return to the work site and test for mercury vapor as soon as conditions are favorable for accurate readings from its mercury vapor test equipment; or
 - 2) In an emergency, as defined in Section 535.10, a public utility may perform work on mercury-containing regulators or manometers without conducting the required mercury vapor test, if conditions are not suitable for accurate readings from its mercury vapor test equipment, but shall return to the work site and test for mercury vapor as soon as conditions are favorable for accurate readings from its mercury vapor test equipment.

Section 535.210 Reporting Mercury Tests

- a) A public utility performing a mercury vapor air sample test required by Section 535.200 shall record the following information:
- 1) The name of the public utility providing natural gas service to the property;
 - 2) The address where the mercury-containing regulator or manometer is or was located;
 - 3) An indication of whether the regulator or manometer was located inside or outside of customer's location;
 - 4) An indication of whether a regulator or manometer is at the specified location;
 - 5) An indication of whether the regulator or manometer remained at the specified location or was removed;
 - 6) The name of the person conducting the test;

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- 7) The date and time of the test;
 - 8) The level of mercury vapor found at each test location;
 - 9) A general description of each air sample test location;
 - 10) The name and model number of the device used to conduct the test;
 - 11) The date of original work and a listing of the conditions that existed that countered the manufacturer's recommendations for use of the mercury testing equipment if testing was postponed due to circumstances covered in Section 535.200(f)(2); and
 - 12) The dated signature of the person completing the mercury vapor test report.
- b) After performing mercury vapor air sample tests required by Section 535.200, a public utility shall, if requested by the occupant or owner of the property, provide a copy of the mercury vapor air sample test results to the occupant or owner of the property where the public utility performed the tests. If requested, the public utility shall mail a copy of the mercury vapor air sample test results in a first class envelope addressed to the occupant or owner within 10 working days after the date of the request.
 - c) A public utility shall retain the information required in subsection (a) for five years. A public utility shall make these records available for inspection by the Commission staff upon request.
 - d) Prior to performing a mercury vapor air sample test required by Section 535.200, a public utility shall inform the occupant or owner of the property that it intends to conduct a mercury vapor air sample test and that the occupant or owner has the right to request a copy of the test results. In an emergency, as defined in Section 535.10, notice required by this Section may be provided upon the resolution of the emergency.

Section 535.220 Mercury Reports to the Commission

- a) No later than April 1 of each year, a public utility offering natural gas service shall file an annual mercury compliance report with the Chief Clerk of the

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Commission. The report shall contain the following information for the previous calendar year:

- 1) The number of locations that required a mercury vapor air sample test; and
 - 2) An identification of the number of locations that contained confirmed readings in excess of the allowed levels and the concentration of mercury vapor detected by the public utility at each location as set forth in Section 535.200(c).
- b) If a public utility reports no activity regarding the removal of mercury-containing regulators or manometers used in providing natural gas service for a period of three consecutive years and certifies by verified statement with the Chief Clerk of the Commission that there are no known locations with mercury-containing regulators or manometers used in providing natural gas service, then the utility is exempted from the reporting requirement.
- c) A public utility's exemption from the reporting requirements in this Section ends in the event that:
- 1) The public utility discovers a mercury-containing regulator or manometer used in providing natural gas service within its system; or
 - 2) The public utility merges with another Illinois natural gas utility or acquires Illinois service territory from another public utility that has not met the requirements of subsection (b).

Section 535.230 Mercury Vapor Air Sample Test Result in Excess of Allowed Levels

- a) For each confirmed mercury vapor air sample test result in excess of the levels set forth in Section 535.200(c), a public utility shall immediately notify all State and federal authorities with jurisdiction of its findings and implement the appropriate mercury contamination clean-up procedure with those authorities, to the extent such notification and clean-up is required under pertinent environmental laws or pertinent safety laws and to the extent that the utility has not previously developed protocols for notification and cleanup with State or federal authorities. Notifying all State and federal authorities with jurisdiction is not required should a public utility's existing protocol with those authorities not require it.

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- b) If a public utility is required, as discussed under subsection (a), to conduct a clean-up, the public utility shall maintain a file of all correspondence regarding each location where it obtained a confirmed mercury vapor air sample test result in excess of the limits set forth in Section 535.200(c) for a period of five years after it receives confirmation from the appropriate State or federal authorities that its mercury clean-up activities are completed and no further work in this regard is needed.

Section 535.240 Certification of Equipment

A public utility, independent contractor, or their agents shall follow the manufacturer's testing, maintenance, and certification recommendations for all mercury vapor testing equipment used to test for the presence of mercury vapor and shall keep the records of such testing, maintenance and certifications for five years after its last mercury vapor test required by Section 535.200.

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
140.80	Amendment
140.82	Amendment
140.84	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 93-659
- 5) Effective Date of Amendments: October 27, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 9, 2004; 28 Ill. Reg. 5749
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version:

Section 140.80(b)

Subsection (b) has been revised to read:

An annual assessment on hospital inpatient services is imposed on each hospital provider in an amount equal to the hospital's occupied bed days multiplied by \$84.19 for State fiscal years 2004 and 2005, if the payment methodologies required under 305 ILCS 5/5A-12 and the waiver created under 42 CFR 433.68 are approved with an effective date prior to July 1, 2004; or the assessment will be imposed for fiscal year 2005 only, if the payment methodologies required under 305 ILCS 5/5A-12 and the waiver created under 42 CFR 433.68 are approved with an effective date on or after July 1, 2004. The Department shall use the number of occupied bed days as reported, by February 3, 2004 (the date of enactment of Public Act 93-0659), by each hospital on the Annual Survey of Hospitals conducted by the Department of Public Health to calculate the hospital's annual

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assessment. If the sum of a hospital's occupied bed days is not reported on the Annual Survey of Hospitals or if there are data errors in the reported sum of a hospital's occupied bed days as determined by the Department, then the Department may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees.

Section 140.80(c)(1)(B)

The following text has been added at the end of subsection (c)(1)(B):

Upon notification to the Department of approval of the payment methodologies to hospitals required under 305 ILCS 5/5A-12 by the Centers for Medicare and Medicaid Services (CMS) of the federal Department of Health and Human Services, and the waiver under 42 CFR 433.68 for the assessment has been granted by the CMS, all quarterly installments otherwise due under 305 ILCS 5/5A-12 prior to the date of notification shall be due and payable to the Department within 30 days after the date of notification.

Section 140.80(d)(1)

In subsection (d)(1), "After December 31 of each year, and on or before March 31 of the succeeding year," has been stricken, and "the" has been replaced by "The" before "Department".

Section 140.80(i)

In subsection (i), all of the text after "Administration and Enforcement Provisions" has been stricken and replaced by:

The Department shall establish and maintain a listing of all hospital providers appearing in the licensing records of the Department of Public Health, which shall show each provider's name and principal place of business and the name and address of each hospital operated, conducted, or maintained by the provider in this State. The Department shall administer and enforce 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12 and collect the assessments and penalty assessments imposed under 305 ILCS 5/5A-2 and 4. The Department, its Director, and every hospital provider subject to assessment measured by occupied bed days shall have the following powers, duties, and rights: Pursuant to Section 5A-7 of P.A. 86-861, to the extent practicable, the Department shall administer and enforce P.A. 86-861, P.A. 88-88, P.A. 89-21 and P.A. 89-499, and collect the assessments, interest, and penalty assessments imposed under the law, using procedures employed in its administration of this Code generally and, as it deems

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appropriate, in a manner similar to that in which the Department of Revenue administers and collects the retailers' occupation tax under the Retailers' Occupation Tax Act ("ROTA").

- 1) The Department may initiate either administrative or judicial proceedings, or both, to enforce the provisions of 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12. Administrative enforcement proceedings initiated hereunder shall be governed by the Department's rules at 89 Ill. Adm. Code 104.200 through 104.330. Judicial enforcement proceedings initiated shall be governed by the rules of procedure applicable in the courts of this State.
- 2) No proceedings for collection, refund, credit, or other adjustment of an assessment amount shall be issued more than three years after the due date of the assessment, except in the case of an extended period agreed to in writing by the Department and the hospital provider before the expiration of this limitation period.
- 3) Any unpaid assessment under 305 ILCS 5/5A-2 shall become a lien upon the assets of the hospital upon which it was assessed. If any hospital provider, outside the usual course of its business, sells or transfers the major part of any one or more of the real property and improvements, the machinery and equipment, or the furniture or fixtures of any hospital that is subject to the provisions of 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12, the seller or transferor shall pay the Department the amount of any assessment, assessment penalty, and interest (if any) due from it under 305 ILCS 5/5A-2 and 4 up to the date of the sale or transfer. If the seller or transferor fails to pay any assessment, assessment penalty, and interest (if any) due, the purchaser or transferee of such asset shall be liable for the amount of the assessment, penalties, and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The purchaser or transferee shall continue to be liable until the purchaser or transferee pays the full amount of the assessment, penalties, and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee or until the purchaser or transferee receives from the Department a certificate showing that such assessment, penalty, and interest have been paid or a certificate from the Department showing that no assessment, penalty, or interest is due from the seller or transferor under 305 ILCS 5/5A-2, 4 and 5.
- 4) Payments under 305 ILCS 5/5A-4 are not subject to the Illinois Prompt

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Payment Act. Credits or refunds shall not bear interest.

- 5) In addition to any other remedy provided for and without sending a notice of assessment liability, the Department may collect an unpaid assessment by withholding, as payment of the assessment, reimbursements or other amounts otherwise payable by the Department to the hospital provider.

Changes have been made throughout the proposed amendments to reflect pertinent ILCS cites.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? Yes
- 14) Are there any other amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.452	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.453	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.454	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.455	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.456	Amendment	July 16, 2004 (28 Ill. Reg. 9923)
140.523	Amendment	August 27, 2004 (28 Ill. Reg.12066)

- 15) Summary and Purpose of Amendments: This rulemaking pertains to the Department's provider fund rules.

Section 140.80, Hospital Provider Fund, is revised pursuant to Public Act 93-659 to establish a new annual assessment on hospital inpatient services. These changes are expected to increase the Hospital Provider Fund by approximately \$560 million. Section 140.82, Developmentally Disabled Care Provider Fund, and Section 140.84, Long Term Care Provider Fund, are revised to provide clarifications on granting penalty waivers by the Assessment Unit staff and to more closely align the rules with related procedures.

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

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid

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201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMSPART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

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

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

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)

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- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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Section

140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
140.405	SeniorCare Pharmaceutical Benefit
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items – Physicians
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
140.420	Dental Services
140.421	Limitations on Dental Services
140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists
140.425	Podiatry Services
140.426	Limitations on Podiatry Services
140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry
140.428	Chiropractic Services
140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Clinical Laboratory Services
140.431	Services Not Covered by Independent Clinical Laboratories
140.432	Limitations on Independent Clinical Laboratory Services
140.433	Payment for Clinical Laboratory Services
140.434	Record Requirements for Independent Clinical Laboratories
140.435	Advanced Practice Nurse Services
140.436	Limitations on Advanced Practice Nurse Services
140.438	Imaging Centers
140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
140.445	Legend Prescription Items (Not Compounded)
140.446	Over-the-Counter Items
140.447	Reimbursement
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140.449	Payment of Pharmacy Items

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- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Clinic Services
- 140.453 Definitions
- 140.454 Types of Mental Health Clinic Services
- 140.455 Payment for Mental Health Clinic Services
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- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
- 140.462 Covered Services in Clinics
- 140.463 Clinic Service Payment
- 140.464 Hospital-Based and Encounter Rate Clinic Payments
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
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- 140.473 Prior Approval for Home Health Services
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- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
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- 140.479 Limitations, Medical Supplies
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- 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
- 140.482 Family Planning Services
- 140.483 Limitations on Family Planning Services
- 140.484 Payment for Family Planning Services
- 140.485 Healthy Kids Program
- 140.486 Illinois Healthy Women
- 140.487 Healthy Kids Program Timeliness Standards
- 140.488 Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures

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140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.494	Record Requirements for Medical Transportation Services
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140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR
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140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered By Department Payment
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140.516	Recipient Management of Funds
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140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds – Local Office Responsibility
140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)
140.527	Quality Incentive Survey (Repealed)
140.528	Payment of Quality Incentive (Repealed)

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140.529	Reviews (Repealed)
140.530	Basis of Payment for Long Term Care Services
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140.533	General Administration Costs
140.534	Ownership Costs
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140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
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140.541	Salaries Paid to Owners or Related Parties
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140.545	Penalty for Failure to File Cost Reports
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140.567	Level II Incentive Payments (Repealed)
140.568	Duration of Incentive Payments (Repealed)
140.569	Clients With Exceptional Care Needs
140.570	Capital Rate Component Determination
140.571	Capital Rate Calculation
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- 140.575 Newly Constructed Facilities (Repealed)
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140.584 Illinois Municipal Retirement Fund (IMRF)
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140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
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140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
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140.650 Certification of Developmental Training (DT) Programs
140.651 Decertification of Day Programs
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140.680 Effective Date Of Payment Rate
140.700 Discharge of Long Term Care Residents
140.830 Appeals of Rate Determinations
140.835 Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND
LOCAL GOVERNMENTAL ENTITIES

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140.855 Administrative Claim Review and Reconsideration Procedure
140.860 County Owned or Operated Nursing Facilities
140.865 Sponsor Qualifications (Repealed)
140.870 Sponsor Responsibilities (Repealed)

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140.875	Department Responsibilities (Repealed)
140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
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140.896	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
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140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)

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140.920	General Description
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140.924	Maternal and Child Health Provider Participation Requirements
140.926	Client Eligibility (Repealed)
140.928	Client Enrollment and Program Components (Repealed)
140.930	Reimbursement
140.932	Payment Authorization for Referrals (Repealed)

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

Section	
140.940	Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
140.942	Definition of Terms (Recodified)

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140.944	Notification of Negotiations (Recodified)
140.946	Hospital Participation in ICARE Program Negotiations (Recodified)
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

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SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986;

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amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective

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April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150

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days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455,

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effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November

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

Section 140.80 Hospital Provider Fund

a) Purpose and Contents

- 1) The Hospital Provider Fund ("Fund") was created in the State Treasury on February 3, 2004 (see 305 ILCS 5/5A-8) ~~upon enactment of Public Act 87-861, Public Act 88-88, Public Act 89-21 and Public Act 89-499~~. Interest earned by the Fund shall be credited to the Fund. The Fund shall not be

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used to replace any funds appropriated to the Medicaid program by the General Assembly.

- 2) The Fund is created for the purpose of receiving and disbursing monies in accordance with this Section and [305 ILCS 5/5A-4 and 12](#)~~Public Act 87-861, as amended by Public Act 88-88, Public Act 89-21 and Public Act 89-499.~~
- 3) The Fund shall consist of:
 - A) All monies collected or received by the Department under subsection (b) [of this Section below](#);
 - B) All federal matching funds received by the Department as a result of expenditures made by the Department that are attributable to monies deposited in the Fund;
 - C) Any interest or penalty levied in conjunction with the administration of the Fund;
 - D) [Monies transferred from another fund in the State treasury](#);
 - ~~E~~) All other monies received for the Fund from any other source, including interest earned [on those monies thereon](#);
 - ~~E~~) [All monies transferred from the Hospital Services Trust Fund; and](#)
 - ~~F~~) [All monies transferred from the Tobacco Products Tax Act.](#)
- b) Provider Assessments
[An annual assessment on hospital inpatient services is imposed on each hospital provider in an amount equal to the hospital's occupied bed days multiplied by \\$84.19 for State fiscal years 2004 and 2005, if the payment methodologies required under \[305 ILCS 5/5A-12\]\(#\) and the waiver created under 42 CFR 433.68 are approved with an effective date prior to July 1, 2004; or the assessment will be imposed for fiscal year 2005 only, if the payment methodologies required under \[305 ILCS 5/5A-12\]\(#\) and the waiver created under 42 CFR 433.68 are approved with an effective date on or after July 1, 2004. The Department shall use the number of occupied bed days as reported, by \[February 3, 2004\]\(#\) \(the date of enactment of Public Act 93-0659\), by each hospital on the Annual Survey of](#)

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Hospitals conducted by the Department of Public Health to calculate the hospital's annual assessment. If the sum of a hospital's occupied bed days is not reported on the Annual Survey of Hospitals or if there are data errors in the reported sum of a hospital's occupied bed days as determined by the Department, then the Department may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees. Effective July 1, 1994, through June 30, 1996, an annual assessment is imposed upon each hospital provider in an amount equal to the provider's adjusted gross hospital revenue, as described in subsection (1)(1) of this Section, for the most recent calendar year ending before the beginning of that fiscal year, multiplied by a Provider's Savings Rate. Effective July 1, 1996, through March 31, 1997, an assessment is imposed in an amount equal to three-fourths of the Provider's adjusted gross hospital revenue for calendar year 1995 multiplied by the Provider's Savings Rate.

- 1) ~~Effective July 1, 1994, through June 30, 1995, the Provider's Savings Rate is obtained by multiplying 1.88 percent by a fraction, the numerator of which is the Maximum Section 5A-2 Contribution minus the Cigarette Tax Contribution, and the denominator of which equals the Maximum Section 5-2 Contribution (see subsections (1)(2), (8) and (10) of this Section).~~
- 2) ~~Effective July 1, 1995, through March 31, 1997, the Provider's Savings Rate is obtained by multiplying 1.25 percent by the fraction described in subsection (b)(1) above.~~
- 3) ~~The Department reserves the right to audit the reported data. The Department shall notify hospital providers of the Provider's Savings Rate by mailing a notice to each provider's last known address as reflected by the records of the Department.~~

c) Payment of Assessment Due

- 1) The annual assessment imposed for State fiscal year 2004 shall be due and payable on June 18, 2004. The assessment imposed for State fiscal year 2005~~in subsection (b) above~~ shall be due and payable in quarterly installments, each ~~equaling~~equalling one-fourth of the assessment for the year, on ~~July 19~~September 30, ~~October 19~~December 31, ~~January 18~~March 31, and ~~April 19~~May 31 of the year, ~~modified to accommodate weekends~~

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~~and holidays, except that for fiscal year 1997 (July 1, 1996 through June 30, 1997), the assessment imposed shall be due and payable in three equal installments on September 30, December 31 and March 31. Providers will be notified, in writing, of the due dates. Assessment payments postmarked on the due date will be considered as paid on time. No installment payments of an assessment shall be due and payable, however, until after:~~

A) the hospital provider receives written notice from the Department that the payment methodologies to hospitals required under [305 ILCS 5/5A-12](#) have been approved by the Centers for Medicare and Medicaid Services of the federal Department of Health and Human Services and the waiver under 42 CFR 433.68 for the assessment has been granted by the Centers for Medicare and Medicaid Services; and

B) the hospital has received payments required under Public Act 93-0659. Assessment payments postmarked on the due date will be considered as paid on time. Upon notification to the Department of approval of the payment methodologies to hospitals required under [305 ILCS 5/5A-12](#) by the Centers for Medicare and Medicaid Services (CMS) of the federal Department of Health and Human Services, and the waiver under 42 CFR 433.68 for the assessment has been granted by the CMS, all quarterly installments otherwise due under [305 ILCS 5/5A-12](#) prior to the date of notification shall be due and payable to the Department within 30 days after the date of notification.

2) All payments received by the Department shall be credited first to unpaid installment amounts (rather than to penalty or interest), beginning with the most delinquent installments.

d) Notice~~Reporting~~ Requirements, Penalty, and Maintenance of Records

1) ~~After December 31 of each year, and on or before March 31 of the succeeding year, The Department shall send a notice of assessment to every hospital provider subject to an assessment under subsection (b) of this Section above, except that the notice for the State fiscal year commencing July 1, 2003, shall be sent on or before June 1, 2004, and no notice shall be sent until the Department receives written notice that the payment methodologies to hospitals required under [305 ILCS 5/5A-12](#)~~

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~~have been approved by the Centers for Medicare and Medicaid Services of the federal Department of Health and Human Services and the waiver under 42 CFR 433.68 for the assessment has been granted by the Centers for Medicare and Medicaid Services. shall file a report with the Department. The report shall be on a form prepared by the Department. The report shall include the adjusted gross hospital revenue from the calendar year just ended and shall be utilized by the Department to calculate the assessment for the State fiscal year commencing on the next July 1.~~

- ~~2) If a hospital provider conducts, operates, or maintains more than one hospital licensed by the Illinois Department of Public Health, a separate notice shall be sent report shall be filed for each hospital. In the case of a hospital provider existing as a corporation or legal entity other than an individual, the report filed by it shall be signed by its president, vice-president, secretary, or treasurer or by its properly authorized agent.~~
- ~~2) If the hospital provider fails to file its report for a State fiscal year on or before the due date of the report, there shall be, unless waived by the Department for reasonable cause, added to the assessment imposed in subsection (b) above a penalty assessment equal to 25 percent of the assessment imposed for the year.~~
- ~~3) Every hospital provider subject to an assessment under subsection (b) above shall keep records and books that will permit the determination of adjusted gross hospital revenue on a calendar year basis. All such books and records shall be maintained for a minimum of three years following the filing date of the assessment report and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.~~
- ~~4) Amended Assessment Reports. With the exception of amended assessment reports filed in accordance with subsection (d)(5) or (6) below, an amended assessment report must be filed within 30 calendar days of the original report due date. The amended report must be accompanied by a letter identifying the changes and the justification for the amended report. The provider will be advised of any adjustments to the original annual assessment amount through a written notification from the Department. Penalties may be applied to the amount underpaid due to a filing error.~~

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- 5) ~~Submission of Financial Audit Statements. All hospital providers are required to submit a copy of all financial statements audited by an external, independent auditor, to the Department within 30 days after the close of such externally performed financial audits. If the hospital's year end does not coincide with the December 31 ending date for the assessment report, the hospital must submit all financial audits covering the assessment report period. An amended assessment report must accompany such external financial audit statements if the data submitted on the initial assessment report changes based upon the findings of such external financial audits and as indicated in the audited external financial statements. Penalties may be applied to the amount underpaid due to a filing error.~~
- 6) ~~Reconsideration of Adjusted Tax. If the Department, through an audit conducted by the Department or its agent within three years after the end of the fiscal year in which the assessment was due, changes the assessment liability of a hospital provider, the hospital provider may request a review or reconsideration of the adjusted assessment within 30 days after the Department's notification of the change in assessment liability. Requests for reconsideration of the assessment adjustment shall not be considered if such requests are not postmarked on or before the end of the 30 day review period. Penalties may be applied to the amount underpaid due to a filing error.~~
- e) Procedure for Partial Year Reporting/Operating Adjustments
- 1) Cessation of business during the fiscal year in which the assessment is being paid. If a hospital provider ceases to conduct, operate, or maintain a hospital for which the person is subject to assessment under subsection (b) ~~of this Section~~^{above}, the assessment for the State fiscal year in which the cessation occurs shall be adjusted by multiplying the assessment computed under subsection (d) ~~of this Section~~ by a fraction, the numerator of which is the number of days in the year during which the provider conducts, operates, or maintains the hospital and the denominator of which is 365. ~~Immediately upon ceasing to conduct, operate or maintain a hospital, the person~~^{The person shall file a final, amended report with the Department not more than 30 calendar days after the cessation, reflecting the adjustment, and shall pay the assessment for the year as adjusted (to the extent not previously paid) with the final return the assessment for the year as so adjusted, to the extent not previously paid.}

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- 2) Commencing of business during the fiscal year in which the assessment is being paid. A hospital provider who commences conducting, operating, or maintaining a hospital for which the person is subject to assessment under subsection (b) ~~of this Section above, upon notice by the Department, shall file an initial report for the State fiscal year in which the commencement occurs within 30 calendar days thereafter and~~ shall pay the assessment under subsection (d) ~~of this Section above~~ as computed by the Department in ~~equal~~ installments on the due ~~dates stated on the notices date of the initial assessment determination~~ and on the regular installment due dates for the State fiscal year occurring after the due date of the initial assessment ~~noticedetermination~~. In determining the annual assessment amount for the provider, the Department shall develop hypothetical annualized ~~occupied bed revenue~~ projections based upon geographic location, facility size and patient case mix ~~or, if there is not enough information to develop a methodology, may base the projection on the average occupied bed percentage of all hospitals in the State~~. The assessment determination made by the Department is final.
- 3) Partial Calendar Year Operation Adjustment. For a hospital provider that did not conduct, operate, or maintain a hospital throughout the entire calendar year reporting period, the assessment for the ~~following~~ State fiscal year shall be annualized based on the provider's actual ~~occupied bed information revenues~~ for the portion of the reporting period the hospital was operational (dividing ~~occupied bedsadjusted gross hospital revenue~~ by the number of days the hospital was in operation and then multiplying the amount by 365). ~~Occupied bed information reported~~ ~~Revenues realized~~ by a prior provider from the same hospital during the calendar year shall be used in the annualization equation, if available.
- 4) Change in Ownership and/or Operators. The full quarterly assessment must be paid on the designated due dates regardless of changes in ownership or operators. Liability for the payment of the assessment amount (including past due assessments and any interest or penalties that may have accrued against the amount) rests on the hospital provider currently operating or maintaining the hospital regardless if these amounts were incurred by the current owner or were incurred by previous owners. Collection of delinquent assessment fees from previous providers will be made against the current provider. Failure of the current provider to pay any outstanding assessment liabilities incurred by previous providers shall

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result in the application of penalties described in subsection (f)(1) of this Section.

f) Penalties

- 1) Any hospital that fails to pay the full amount of an installment when due shall be charged, unless waived by the Department for reasonable cause, a penalty equal to five percent of the amount of the installment not paid on or before the due date, plus five percent of the portion thereof remaining unpaid on the last day of each ~~monthly period~~ month thereafter, not to exceed 100 percent of the installment amount not paid on or before the due date. Waiver due to reasonable cause may include but is not limited to:
 - A) A provider can demonstrate to the Department's satisfaction that a payment was made prior to the due date.
 - B) A provider is a new owner/operator and the late payment occurred in the quarter in which the new owner/operator assumed control of the facility.
- 2) Within ~~304~~ 3045 days ~~after~~ from the due date, the Department may begin recovery actions against delinquent hospitals participating in the Medicaid Program. Payments may be withheld from the hospital until the entire assessment, including any penalties, is satisfied or until a reasonable repayment schedule has been approved by the Department. If a reasonable agreement cannot be reached or if a hospital fails to comply with an agreement, the Department reserves the right to recover any outstanding provider assessment, interest and penalty by recouping the amount or a portion thereof from the hospital's future payments from the Department. The provider may appeal this recoupment in accordance with the Department's ~~Department~~ rules at contained in ~~89~~ Ill. Adm. Code 104. The Department has the right to continue recoupment during the appeal process. Penalties pursuant to subsection (f)(1) of this Section ~~above~~ will continue to accrue during the recoupment process. Recoupment proceedings against the same hospital two times in a fiscal year may be cause for termination from the Program. Failure by the Department to initiate recoupment activities within ~~304~~ 3045 days shall not reduce the provider's liabilities nor shall it preclude the Department from taking action at a later date.

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3) If the hospital does not participate in the Medicaid Program, or is no longer doing business with the Department, or the Department cannot recover the full amount due through the claims processing system, within three months ~~after~~ of the fee due date, the Department may begin legal action to recover the monies, including penalties and interest owed, plus court costs.

g) Delayed Payment – Groups of Hospitals

The ~~Department Director~~ may establish delayed payment of assessments and/or waive the payment of interest and penalties for groups of hospitals such as disproportionate share hospitals or all other hospitals when:

- 1) the State delays payments to hospitals due to problems related to ~~State~~ cash flow; or
- 2) a cash flow bond pool's, or any other group financing plans', requests from providers for loans are in excess of its scheduled proceeds such that a significant number of hospitals will be unable to obtain a loan to pay the assessment.

h) Delayed Payment – Individual Hospitals

In addition to the provisions of subsection (g) [of this Section above](#), the ~~Department Director~~ may delay assessments for individual hospitals that are unable to make timely payments under this Section due to financial difficulties. No delayed payment arrangements shall extend beyond the last business day of the calendar quarter following the quarter in which the assessment was to have been received by the Department as described in subsection (c) [of this Section above](#).

- 1) Criteria. Delayed payment provisions may be instituted only under extraordinary circumstances. Delayed payment provisions may be made only to qualified hospitals who meet all of the following requirements:
 - A) the provider has experienced an emergency which necessitates institution of delayed payment provisions. Emergency in this instance is defined as a circumstance under which institution of the payment and penalty provisions described in subsections (c)(1), (c)(2), (f)(1) and (f)(2) [of this Section above](#) would impose severe and irreparable harm to the clients served. Circumstances which

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may create such emergencies include, but are not limited to, the following:

- i) Department system errors (either automated system or clerical) which have precluded payments, or which have caused erroneous payments such that the provider's ability to provide further services to clients is severely impaired;
 - ii) cash flow problems encountered by a provider which are unrelated to Department technical system problems and which result in extensive financial problems to a facility, adversely impacting on its ability to serve its clients.
- B) the provider serves a significant number of clients under the medical assistance program. "Significant" in this instance means:
- i) a hospital that serves a significant number of clients under the medical assistance program; significant in this instance means that the hospital qualifies as a disproportionate share hospital ([DSH](#)) under 89 Ill. Adm. Code 148.120(a)(1) through 148.120(a)(5); or qualifies as a Medicare DSH hospital under the current federal guidelines.
 - ii) a government-owned facility, which meets the cash flow criterion under subsection (h)(1)(A)(ii) [of this Section above](#).
 - iii) a hospital which has filed for Chapter 11 bankruptcy, which meets the cash flow criteria under subsection (h)(1)(A)(ii) [of this Section above](#).
- C) the provider must file a delay of payment request as defined under subsection (h)(3)(A) [of this Section below](#), and the request must include a Cash Position Statement which is based upon current assets, current liabilities and other data for a date which is less than 60 days prior to the date of filing. Any liabilities payable to owners or related parties must not be reported as current liabilities on the Cash Position Statement. A deferral of assessment payments will be denied if any of the following criteria are met:

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- i) the ratio of current assets divided by current liabilities is greater than 2.0.
 - ii) cash, short term investments and long term investments equal or exceed the total of accrued wages payable and the assessment payment. Long term investments which are unavailable for expenditure for current operations due to donor restrictions or contractual requirements will not be used in this calculation.
- D) the provider must show evidence of denial of an application to borrow assessment funds through a cash flow bond pool or financial institutions such as a commercial bank. The denial must be 90 days old or less.
- E) the provider must sign an agreement with the Department which specifies the terms and conditions of the delayed payment provisions. The agreement shall contain the following provisions:
- i) specific reason(s) for institution of the delayed payment provisions;
 - ii) specific dates on which payments must be received and the amount of payment which must be received on each specific date described;
 - iii) the interest or a statement of interest waiver as described in subsection (h)(5) [of this Section](#) below that shall be due from the provider as a result of institution of the delayed payment provisions;
 - iv) a certification stating that, should the entity be sold, the new owners will be made aware of the liability and any agreement selling the entity will include provisions that the new owners will assume responsibility for repaying the debt to the Department according to the original agreement;
 - v) a certification stating that all information submitted to the Department in support of the delayed payment request is true and accurate to the best of the signator's knowledge;

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and

vi) such other terms and conditions that may be required by the Department.

2) A hospital which does not meet the above criteria may request a delayed payment schedule ~~and/or the waiver of interest and penalties~~. The ~~Department~~Director may approve the request, notwithstanding the hospital not meeting the above criteria, upon a sufficient showing of financial difficulties and good cause by the hospital. If the request for a delayed payment schedule ~~and/or waiver of interest and penalties~~ is approved, all other conditions of this subsection (h) shall apply.

3) Approval Process-

A) In order to receive consideration for delayed payment provisions, providers must submit their request in writing (telefax requests are acceptable) to the Bureau of Program and Reimbursement Analysis. The request must be received by the date designated by the Department. Providers will be notified, in writing, as to the due dates for submitting delay of payment requests. Requests must be complete and contain all required information before they are considered to have met the time requirements for filing a delayed payment request. All telefax requests must be followed up with original written requests, postmarked no later than the date of the telefax. The request must include:

- i) an explanation of the circumstances creating the need for the delayed payment provisions;
- ii) supportive documentation to substantiate the emergency nature of the request including a cash position statement as defined in subsection (h)(1)(C) of this Section, a denial of application to borrow the assessment as defined in subsection (h)(1)(D) of this Section and an explanation of the risk of irreparable harm to the clients; and
- iii) specification of the specific arrangements requested by the provider.

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- B) The hospital shall be notified by the Department, in writing prior to the assessment due date, of the Department's decision with regard to the request for institution of delayed payment provisions. An agreement shall be issued to the provider for all approved requests. The agreement must be signed by the administrator, owner, chief executive officer or other authorized representative and be received by the Department prior to the first scheduled payment date listed in such agreement.
- 4) Waiver of Penalties. The penalties described in subsections (f)(1) and (f)(2) of this Section may be waived upon approval of the provider's request for institution of delayed payment provisions. In the event a provider's request for institution of delayed payment provisions is approved and the Department has received the signed agreement in accordance with subsection (h)(3)(B) [of this Section above](#), such penalties shall be permanently waived for the subject quarter unless the provider fails to meet all of the terms and conditions of the agreement. In the event the provider fails to meet all of the terms and conditions of the agreement, the agreement shall be considered null and void and such penalties shall be fully reinstated.
- 5) Interest. The delayed payments shall include interest at a rate not to exceed the State of Illinois borrowing rate. The applicable interest rate shall be identified in the agreement described in subsection (h)(1)(E) [of this Section above](#). The interest may be waived by the [Department Director](#) if the facility's current ratio, as described in subsection (h)(1)(C) [of this Section above](#), is 1.5 or less and the hospital meets the criteria in subsections (h)(1)(A) and (B) [of this Section above](#). Any such waivers granted shall be expressly identified in the agreement described in subsection (h)(1)(E) [of this Section above](#).
- 6) Subsequent Delayed Payment Arrangements. Once a provider has requested and received approval for delayed payment arrangements, the provider shall not receive approval for subsequent delayed payment arrangements until such time as the terms and conditions of any current delayed payment agreement have been satisfied or unless the provider is in full compliance with the terms of the current delayed payment agreement. The waiver of penalties described in subsection (h)(4) [of this Section above](#) shall not apply to a provider that has not satisfied the terms and conditions of any current delayed payment agreement.

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i) Administration and Enforcement Provisions

The Department shall establish and maintain a listing of all hospital providers appearing in the licensing records of the Department of Public Health, which shall show each provider's name and principal place of business and the name and address of each hospital operated, conducted, or maintained by the provider in this State. The Department shall administer and enforce 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12 and collect the assessments and penalty assessments imposed under 305 ILCS 5/5A-2 and 4. The Department, its Director, and every hospital provider subject to assessment measured by occupied bed days shall have the following powers, duties, and rights:

- 1) The Department may initiate either administrative or judicial proceedings, or both, to enforce the provisions of 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12. Administrative enforcement proceedings initiated shall be governed by the Department's rules at 89 Ill. Adm. Code 104.200-104.330. Judicial enforcement proceedings initiated shall be governed by the rules of procedure applicable in the courts of this State.
- 2) No proceedings for collection, refund, credit, or other adjustment of an assessment amount shall be issued more than three years after the due date of the assessment, except in the case of an extended period agreed to in writing by the Department and the hospital provider before the expiration of this limitation period.
- 3) Any unpaid assessment under 305 ILCS 5/5A-2 shall become a lien upon the assets of the hospital upon which it was assessed. If any hospital provider, outside the usual course of its business, sells or transfers the major part of any one or more of the real property and improvements, the machinery and equipment, or the furniture or fixtures of any hospital that is subject to the provisions of 305 ILCS 5/5A-1, 2, 3, 4, 5, 7, 8, 10 and 12, the seller or transferor shall pay the Department the amount of any assessment, assessment penalty, and interest (if any) due from it under 305 ILCS 5/5A-2 and 4 up to the date of the sale or transfer. If the seller or transferor fails to pay any assessment, assessment penalty, and interest (if any) due, the purchaser or transferee of such asset shall be liable for the amount of the assessment, penalties, and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The purchaser or transferee shall continue to be liable until the purchaser or transferee pays the full amount of the assessment, penalties,

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and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee or until the purchaser or transferee receives from the Department a certificate showing that such assessment, penalty, and interest have been paid or a certificate from the Department showing that no assessment, penalty, or interest is due from the seller or transferor under 305 ILCS 5/5A-2, 4 and 5.

4) Payments under 305 ILCS 5/5A-4 are not subject to the Illinois Prompt Payment Act. Credits or refunds shall not bear interest.

5) In addition to any other remedy provided for and without sending a notice of assessment liability, the Department may collect an unpaid assessment by withholding, as payment of the assessment, reimbursements or other amounts otherwise payable by the Department to the hospital provider.

~~Pursuant to Section 5A-7 of P.A. 86-861, to the extent practicable, the Department shall administer and enforce P.A. 86-861, P.A. 88-88, P.A. 89-21 and P.A. 89-499, and collect the assessments, interest, and penalty assessments imposed under the law, using procedures employed in its administration of this Code generally and, as it deems appropriate, in a manner similar to that in which the Department of Revenue administers and collects the retailers' occupation tax under the Retailers' Occupation Tax Act ("ROTA").~~

j) Exemptions

The following classes of providers are exempt from the assessment imposed under 305 ILCS 5/5A-4 unless the exemption is adjudged to be unconstitutional or otherwise invalid:

1) A hospital provider that is a State agency, a State university, or a county with a population of 3,000,000 or more.

2) A hospital provider that is a county with a population of less than 3,000,000 or a township, municipality, hospital district, or any other local governmental unit.

3) A hospital provider whose hospital does not charge for its services.

4) A hospital provider whose hospital is licensed by the Department of Public Health as a psychiatric hospital.

5) A hospital provider whose hospital is licensed by the Department of

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Public Health as a rehabilitation hospital.

- 6) A hospital provider whose hospital is not a psychiatric hospital, rehabilitation hospital, or children's hospital and has an average length of inpatient stay greater than 25 days.
- 1) ~~A rural hospital, as defined in subsection (1)(11) below, shall be exempt from the assessment imposed under subsection (b), unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the provider shall pay the assessment imposed under subsection (b) above.~~
- 2) ~~A hospital provider which is a county with a population of more than 3,000,000 that makes intergovernmental transfer payments as provided in Section 15-3 of P.A. 87-861, P.A. 88-85, P.A. 88-88 and P.A. 89-21, shall be exempt from the assessment imposed by subsection (b) above, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the hospital shall pay the assessment imposed by subsection (b) above for all assessment periods beginning on or after July 1, 1992, and the assessment so paid shall be creditable against the intergovernmental transfer payments.~~
- 3) ~~The Department is authorized to enter into an interagency agreement with a hospital organized under the University of Illinois Hospital Act and exempt from the assessment imposed under subsection (b) of this Section, to make intergovernmental transfer payments to the Department. Effective July 1, 1994, these payments shall be deposited into the University of Illinois Fund, as mandated under P.A. 88-554.~~
- 4) ~~The Department is also authorized to enter into agreements with publicly owned or operated hospitals not described in subsections (j)(1) through (j)(3) above to make intergovernmental transfer payments to the Department. These payments shall be deposited into the Hospital Provider Fund.~~
- 5) ~~Facilities operated by the Department of Mental Health and Developmental Disabilities shall be exempt from the assessment imposed by subsection (b) above.~~
- k) Nothing in ~~305 ILCS 5/5A-4~~Public Act 89-499 shall be construed to prevent the Department from collecting all amounts due under this Section pursuant to an

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assessment imposed before ~~February 3, 2004~~ ~~the effective date of P.A. 89-499.~~

1) Definitions.

As used in this Section, unless the context requires otherwise:

- ~~1)~~ ~~"Adjusted gross hospital revenue" means the hospital provider's total gross patient charges less Medicare contractual allowances, but does not include gross patient revenue from skilled or intermediate long term care services within the meaning of Title XVIII or XIX of the Social Security Act, or home health and hospice services (and the portion of any Medicare contractual allowance related thereto). Revenue generated from swing beds, as described in subsection (1)(12) below, is considered to be part of the provider's gross hospital revenue. Revenue not related to patient care, such as, investment income, gift shop, cafeteria, or parking lot revenue is not considered as patient revenue. Adjusted gross hospital revenue must be reported on an accrual basis for the assessment reporting period. All patient revenue accrued during the assessment reporting period must be included even though reimbursement may occur after the assessment reporting period. Patient revenue must be reported on a basis that is consistent with methods used on the hospital's last two cost reports.~~
- ~~2)~~ ~~"Cigarette Tax Contribution" is the sum of the total amount deposited in the Hospital Provider Fund in the previous State fiscal year pursuant to Section 2(a) of the Cigarette Tax Act, plus the total amount deposited in the Hospital Provider Fund in the previous State fiscal year pursuant to Section 5A-3(e) of Public Act 88-88, as amended by Public Act 89-21.~~
- 13) "Department" means the Illinois Department of Public Aid.
- 24) "Fund" means the Hospital Provider Fund.
- 35) "Hospital" means an institution, place, building, or agency located in this State that is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act, whether public or private and whether organized for profit or not-for-profit.
- 46) "Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital, regardless of whether the person is a Medicaid provider. For purposes of this definition, "person" means any political subdivision of the State, municipal

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corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

- 5) "Occupied bed days" means the sum of the number of days that each bed was occupied by a patient for all beds, excluding beds classified as long term care beds and assessed a licensed bed fee during calendar year 2001. Occupied bed days shall be computed separately for each hospital operated or maintained by a hospital provider.
- 7) "Intergovernmental transfer payment/Interagency Agreement" means the payments established under Section 15-3 of P.A. 87-861, P.A. 88-85, P.A. 88-88 and P.A. 88-554, and includes without limitation payments payable under that Section for July, August and September of 1992.
- 8) "Maximum Section 5A-2 Contribution" is the total amount of tax imposed by Section 5A-2 of Public Act 88-88, as amended by Public Act 89-21, in the previous State fiscal year on providers subject to the assessment imposed by subsection (b) above; multiplied by a fraction the numerator of which is adjusted gross hospital revenues reported to the Department by providers subject to the assessment imposed by subsection (b) for the previous State fiscal year and the denominator of which is adjusted gross hospital revenues reported to the Department by providers subject to the assessment imposed by subsection (b) for the State fiscal year immediately preceding the previous State fiscal year.
- 9) "Medicare Contractual Allowance" means the difference between charges at established rates and the amount estimated to be paid by Medicare, as appropriate, pursuant to agreements between the hospital and the Health Care Financing Administration.
- 10) "Provider's Savings Rate" effective July 1, 1994, is 1.88 percent multiplied by a fraction, the numerator of which is the Maximum Section 5A-2 Contribution minus the Cigarette Tax Contribution, and the denominator of which is the Maximum Section 5A-2 Contribution. Effective July 1, 1995, through March 31, 1997, the Provider's Savings Rate is 1.25 percent multiplied by the same fraction as described above.
- 11) "Rural hospital" means a hospital that is:

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- A) ~~located outside a metropolitan statistical area;~~
 - B) ~~located 15 miles or less from a county that is outside a metropolitan statistical area and that is licensed to perform medical/surgical or obstetrical services and had a combined approved total bed capacity of 75 or fewer beds in these two service categories as of the effective date of P.A. 88-88 (July 14, 1993), as determined by the Illinois Department of Public Health;~~
~~or~~
 - C) ~~qualified as a rural hospital by meeting subsection (1)(11)(A) or (B) above as of July 14, 1993.~~
- 12) ~~The Illinois Department of Public Health must have been notified in writing of any changes to a facility's bed count on or before the effective date of P.A. 88-88 (July 14, 1993). Appeals of the geographic designation of a hospital provider shall be in accordance with 89 Ill. Adm. Code 148.310(m).~~
- 13) ~~"Swing beds" means those beds for which a hospital provider has been granted an approval from the federal Health Care Financing Administration to provide post-hospital extended care services (42 CFR 409.30, October 1, 1991) and be reimbursed as a swing bed hospital (42 CFR 413.114, October 1, 1991).~~

(Source: Amended at 28 Ill. Reg. 14804, effective October 27, 2004)

Section 140.82 Developmentally Disabled Care Provider Fund

- a) Purpose and Contents
 - 1) The Developmentally Disabled Care Provider Fund was created in the State Treasury ~~on July 1, 1992, July 14, 1993 and July 1, 1995 (see 305 ILCS 5/5C-7) upon enactment of Public Act 87-861, Public Act 88-88 and Public Act 89-21.~~ Interest earned by the Fund shall be credited to the Fund. The Fund shall not be used to replace any funds appropriated to the Medicaid program by the General Assembly.
 - 2) The Fund is created for the purpose of receiving and disbursing monies in

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accordance with this Section ~~and 305 ILCS 5/5C-2 and 7, Public Act 87-861, Public Act 88-88 and Public Act 89-21.~~ and 305 ILCS 5/5C-2 and 7.

- 3) The Fund shall consist of:
 - A) All monies collected or received by the Department under subsection (b) of this Section below;
 - B) All federal matching funds received by the Department as a result of expenditures made by the Department that are attributable to monies deposited in the Fund;
 - C) Any interest or penalty levied in conjunction with the administration of the Fund;
 - D) All other monies received for the Fund from any other source, including interest earned thereon; and
 - E) All monies transferred from the Medicaid Developmentally Disabled Provider Participation Fee Trust Fund.
- b) **Provider Assessments**

Beginning on July 1, 1993, an assessment is imposed upon each developmentally disabled care provider in an amount equal to six percent of its adjusted gross developmentally disabled care revenue for the prior State fiscal year. The revenue for each year will be reported on the Developmentally Disabled Care Provider Tax form to be filed by a date designated by the Department. The Department reserves the right to audit the reported data.
- c) **Payment of Assessment Due**
 - 1) The assessment described in subsection (b) of this Section above shall be due and payable in quarterly installments, each ~~equaling~~equalling one-fourth of the assessment for the year, on September 30, December 31, March 31, and May 31 of the year, modified to accommodate weekends and holidays. Providers will be notified, in writing, of the due dates. Assessment payments postmarked on the due date will be considered paid on time.
 - 2) All payments received by the Department shall be credited first to unpaid

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installment amounts (rather than to penalty or interest), beginning with the most delinquent installments.

- d) Reporting Requirements, Penalty, and Maintenance of Records
- 1) After June 30 of each State fiscal year, and on or before September 30 of the succeeding State fiscal year, every developmentally disabled care provider subject to an assessment under subsection (b) [of this Section](#)~~above~~ shall file a report with the Department. The report shall be on a form prepared by the Department. The report shall include the adjusted gross developmentally disabled care revenue from the State fiscal year just ended and shall be utilized by the Department to calculate the assessment for the State fiscal year commencing on the preceding July 1. If a developmentally disabled care provider operates or maintains more than one developmentally disabled care facility, a separate report shall be filed for each facility. In the case of a developmentally disabled care provider existing as a corporation or legal entity other than an individual, the report filed by it shall be signed by its president, vice-president, secretary, or treasurer or by its properly authorized agent.
 - 2) If the developmentally disabled care provider fails to file its report for a State fiscal year on or before the due date of the report, there shall, unless waived by the Department for reasonable cause, be added to the assessment imposed in subsection (b) [of this Section](#)~~above~~ a penalty assessment equal to 25 percent of the assessment imposed for the year.
 - 3) Every developmentally disabled care provider subject to an assessment under subsection (b) [of this Section](#)~~above~~ shall keep records and books that will permit the ~~determination~~[determination](#) of adjusted gross developmentally disabled care revenue on a State fiscal year basis. All such books and records shall be maintained for a minimum of three years following the filing date of the assessment report and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.
 - 4) Amended Assessment Reports. With the exception of amended assessment reports filed in accordance with ~~subsections~~[subsections](#) (d)(5) or (6) [of this Section](#)~~below~~, an amended assessment report must be filed within 30 calendar days ~~after~~[of](#) the original report due date. The amended report must be accompanied by a letter identifying the changes and the

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justification for the amended report. The provider will be advised of any adjustments to the original annual assessment amount through a written notification from the Department. Penalties may be applied to the amount underpaid due to a filing error.

- 5) Submission of Financial Audit Statements. All developmentally disabled care providers are required to submit a copy of all financial statements audited by an external, independent auditor to the Department within 30 days ~~after~~ the close of such externally performed financial audits. If the provider's year end does not coincide with the June 30 ending date for the assessment report, the provider must submit all financial audits covering the tax report period. An amended assessment report must accompany such external financial audit statements if the data submitted on the initial tax report changes based upon the findings of such external financial audits and as indicated in the audited external financial statements. Penalties may be applied to the amount underpaid due to a filing error.
 - 6) Reconsideration of Adjusted Tax. If the Department, through an audit conducted by the Department or its agent within three years after the end of the fiscal year in which the assessment was due, changes the assessment liability of a developmentally disabled care provider, the developmentally disabled care provider may request a review or reconsideration of the adjusted assessment within 30 days ~~after~~ the Department's notification of the change in assessment liability. Requests for reconsideration of the assessment adjustment shall not be considered if such requests are not postmarked on or before the end of the 30 day review period. Penalties may be applied to the amount underpaid due to a filing error.
- e) Procedure for Partial Year Reporting/Operating Adjustments
- 1) Cessation of business during the fiscal year in which the assessment is being paid. For a developmentally disabled care provider who ceases to conduct, operate, or maintain a facility for which the person is subject to assessment under subsection (b) ~~of this Section~~^{above}, the assessment for the State fiscal year in which the cessation occurs shall be adjusted by multiplying the assessment computed under subsection (d) ~~of this Section~~^{above} by a fraction, the numerator of which is the number of ~~months~~^{days} in the year during which the provider conducts, operates, or maintains the facility and the denominator of which is ~~12~~³⁶⁵. The person shall file a final, amended report with the Department not more than 30

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calendar days after the cessation, reflecting the adjustment, and shall pay with the final report the assessment for the year as so adjusted, to the extent not previously paid.

- 2) Commencing of business during the fiscal year in which the assessment is being paid. A developmentally disabled care provider who commences conducting, operating, or maintaining a facility for which the person is subject to assessment under subsection (b) [of this Section above](#), shall file an initial return for the State fiscal year in which the commencement occurs within 30 calendar days thereafter and shall pay the assessment under subsection (d) [of this Section above](#) as computed by the Department in equal installments on the due date of the initial assessment determination and on the regular installment due dates for the State fiscal year occurring after the due date of the initial assessment determination. In determining the annual assessment amount for the provider the Department shall develop hypothetical annualized revenue projections based upon geographic location, facility size and patient case mix. The assessment determination made by the Department is final.
- 3) Partial Fiscal Year Operation Adjustment. For a developmentally disabled care provider that did not conduct, operate, or maintain a facility throughout the entire fiscal year reporting period, the assessment for the following State fiscal year shall be annualized based on the provider's actual developmentally disabled care revenue for the portion of the reporting period the facility was operational (dividing adjusted developmentally disabled care revenue by the number of [months/days](#) the facility was in operation and then multiplying that amount by [12/365](#)). Developmentally disabled care revenue realized by a prior provider from the same facility during the fiscal year shall be used in the annualization equation, if available.
- 4) Change in Ownership and/or Operators. The full quarterly assessment must be paid on the designated due dates regardless of changes in ownership or operators. Liability for the payment of the assessment amount (including past due assessments and any interest or penalties that may have accrued against the amount) rests on the developmentally disabled care provider currently operating or maintaining the developmentally disabled care facility regardless if these amounts were incurred by the current owner or were incurred by previous owners. Collection of delinquent assessment fees from previous providers will be

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made against the current provider. Failure of the current provider to pay any outstanding assessment liabilities incurred by previous providers shall result in the application of penalties described in subsection (f)(1) of this Section.

f) Penalties

- 1) Any facility that fails to pay the full amount of an installment when due shall be charged, unless waived by the Department for reasonable cause, a penalty equal to five percent of the amount of the installment not paid on or before the due date, plus five percent of the portion thereof remaining unpaid on the last day of each monthly period ~~month~~ thereafter, not to exceed 100 percent of the installment amount not paid on or before the due date. Reasonable cause may include but is not limited to:
 - A) a provider who has not been delinquent on payment of an assessment due within the last three calendar years from the time the delinquency occurs;
 - B) a provider who can demonstrate to the Department's satisfaction that a payment was made prior to the due date; or
 - C) that the provider is a new owner/operator and the late payment occurred in the quarter in which the new owner/operator assumed control of the facility.
- 2) Within 3045 days ~~after~~~~from~~ the due date, the Department may begin recovery actions against delinquent facilities participating in the Medicaid Program. Payments may be withheld from the facility until the entire provider assessment, including any penalties, is satisfied, or until a reasonable repayment schedule has been approved by the Department. If a reasonable agreement cannot be reached, or if the facility fails to comply with an agreement the Department reserves the right to recover any outstanding provider assessment, interest and penalty by recouping the amount or a portion thereof from the provider's future payments from the Department. The provider may appeal this recoupment in accordance with the Department's~~Department~~ rules ate~~contained in~~ 89 Ill. Adm. Code 104. The Department has the right to continue recoupment during the appeal process. Penalties pursuant to subsection (f)(1) of this Section~~above~~ will continue to accrue during the recoupment process. Recoupment

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proceedings against the same facility two times in a fiscal year may be cause for termination from the Program. Failure by the Department to initiate recoupment activities within 3045 days shall not reduce the provider's liabilities nor shall it preclude the Department from taking action at a later date.

- 3) If the facility does not participate in the Medicaid Program, or is no longer doing business with the Department, or the Department cannot recover the full amount due through the claims processing system, within three months of the assessment due date, the Department may begin legal action to recover the monies, including penalties and interest owed, plus court costs.

g) Delayed Payment – Groups of Facilities-

The DepartmentDirector may establish delayed payment of assessments and/or waive the payment of interest and penalties for groups of facilities when:

- 1) the State delays payments to facilities due to problems related to Statestate cash flow; or
- 2) a cash flow bond pool's or any other group financing plans' requests from providers for loans are in excess of its scheduled proceeds such that a significant number of facilities will be unable to obtain a loan to pay the assessment.

h) Delayed Payment – Individual Facilities

In addition to the provisions of subsection (g) of this Sectionabove, the DepartmentDirector may delay assessments for individual facilities that are unable to make timely payments under this Section due to financial difficulties. No delayed payment arrangements shall extend beyond the last business day of the calendar quarter following the quarter in which the assessment was to have been received by the Department as described in subsection (c) of this Sectionabove.

- 1) Criteria. Delayed payment provisions may be instituted only under extraordinary circumstances. Delayed payment provisions shall be made only to qualified facilities who meet all of the following requirements:
 - A) the facility has experienced an emergency which necessitates institution of delayed payment provisions. Emergency in this

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instance is defined as a circumstance under which institution of the payment and penalty provisions described in subsections (c)(1), (c)(2), (f)(1), (f)(2) and (f)(3) [of this Section above](#) would impose severe and irreparable harm to the clients served. Circumstances which may create such emergencies include, but are not limited to, the following:

- i) Department system errors (either automated system or clerical) which have precluded payments, or which have caused erroneous payments such that the facility's ability to provide further services to clients is severely impaired;
 - ii) cash flow problems encountered by a facility which are unrelated to Department technical system problems and which result in extensive financial problems to a facility adversely impacting on its ability to serve its clients.
- B) the facility serves a significant number of clients under the Medical Assistance Program. Significant in this instance means:
- i) 85 percent or more of their residents must be eligible for public assistance;
 - ii) a government-owned facility, which meets the cash flow criteria under subsection (h)(1)(A)(ii) [of this Section above](#).
 - iii) a provider who has filed for Chapter 11 bankruptcy, which meets the cash flow criterion under subsection (h)(1)(A)(ii) [of this Section above](#).
- C) the facility must file a delay of payment request as defined in subsection (h)(3)(A) [of this Section below](#), and the request must include a Cash Position Statement which is based upon current assets, current liabilities and other data for a date which is less than 60 days prior to the date of filing. Any liabilities payable to owners or related parties must not be reported as current liabilities on the Cash Position Statement. A deferral of assessment payments will be denied if any of the following criteria are met:
- i) the ratio of current assets divided by current liabilities is

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greater than 2.0;

ii) cash, short term investments and long term investments equal or exceed the total of accrued wages payable and the assessment payment. Long term investments which are unavailable for expenditure for current operations due to donor restrictions or contractual requirements will not be used in this calculation;

iii) cash or other assets ~~have~~^{has} been distributed during the previous 90 days to owners or related parties in an amount equal to or exceeding the assessment payment for dividends, salaries in excess of those allowable under Section 140.541 or payments for purchase of goods or services in excess of cost as defined in Section 140.537.

D) the facility, with the exception of government owned facilities, must show evidence of denial of an application to borrow the assessment funds through a cash flow bond pool or financial institutions such as a commercial bank. The denial must be 90 days old or less.

E) the facility must sign an agreement with the Department which specifies the terms and conditions of the delayed payment provisions. The agreement shall contain the following provisions:

i) specific reason(s) for institution of the delayed payment provisions;

ii) specific dates on which payments must be received and the amount of payment which must be received on each specific date described;

iii) the interest or a statement of interest waiver as described in subsection (h)(5) of this Section~~below~~ that shall be due from the facility as a result of institution of the delayed payment provisions;

iv) a certification stating that, should the entity be sold, the new owners will be made aware of the liability and any

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agreement selling the entity will include provisions that the new owners will assume responsibility for repaying the debt to the Department according to the original agreement;

- v) a certification stating that all information submitted to the Department in support of the delayed payment request is true and accurate to the best of the signator's knowledge; and
- vi) such other terms and conditions that may be required by the Department.

2) A facility ~~that~~which does not meet the ~~above~~ criteria listed in subsection (h)(1) may request a delayed payment schedule ~~and/or the waiver of interest and penalties~~. The ~~Department Director~~ may approve the request, notwithstanding the facility not meeting the above criteria, upon a sufficient showing of financial difficulties and good cause by the facility. If the request for a delayed payment schedule ~~and/or waiver of interest and penalties~~ is approved, all other conditions of this subsection (h) shall apply.

3) Approval Process

- A) In order to receive consideration for delayed payment provisions, facilities must submit their request in writing (telefax requests are acceptable) to the Bureau of Program and Reimbursement Analysis. The request must be received by the due date designated by the Department. Providers will be notified, in writing, of the due dates for submitting delay of payment requests. Requests must be complete and contain all required information before they are considered to have met the time requirements for filing a delayed payment request. All telefax requests must be followed up with original written requests postmarked no later than the date of the telefax. The request must include:
 - i) an explanation of the circumstances creating the need for the delayed payment provisions;
 - ii) supportive documentation to substantiate the emergency nature of the request and risk of irreparable harm to the

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clients; and

iii) specification of the specific arrangements requested by the facility.

B) The facility shall be notified by the Department, in writing prior to the assessment due date, of the Department's decision with regard to the request for institution of delayed payment provisions. An agreement shall be issued to the facility for all approved requests. The agreement must be signed by the administrator, owner or other authorized representative and be received by the Department prior to the first scheduled payment date listed in such agreement.

4) Waiver of Penalties. The penalties described in subsections (f)(1) and (f)(2) of this Section may be waived upon approval of the facility's request for institution of delayed payment provisions. In the event a facility's request for institution of delayed payment provisions is approved and the Department has received the signed agreement in accordance with subsection (h)(3)(B) [of this Section above](#), such penalties shall be permanently waived for the subject quarter unless the facility fails to meet all of the terms and conditions of the agreement. In the event the facility fails to meet all of the terms and conditions of the agreement, the agreement shall be considered null and void and such [penalties penalties](#) shall be fully reinstated.

5) Interest. The delayed payments shall include interest at a rate not to exceed the State of Illinois borrowing rate. The applicable interest rate shall be identified in the agreement described in subsection (h)(1)(E) [of this Section above](#). The interest may be waived by the [Department Director](#) if the facility's current ratio, as described in subsection (h)(1)(C) [of this Section above](#) is 1.5 or less and the facility meets the criteria in subsections (h)(1)(A) and (B) [of this Section above](#). Any such waivers granted shall be expressly identified in the agreement described in subsection (h)(1)(E) [of this Section above](#).

6) Subsequent Delayed Payment Arrangements. Once a facility has requested and received approval for delayed payment arrangements, the facility shall not receive approval for subsequent delayed payment arrangements until such time as the terms and conditions of any current delayed payment agreement have been satisfied or unless the provider is in

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full compliance with the terms of the current delay of payment agreement. The waiver of penalties described in subsection (h)(4) ~~of this Section~~ shall not apply to a facility that has not satisfied the terms and conditions of any current delayed payment agreement.

- i) Administration ~~and Enforcement Provisions; enforcement provisions~~ Pursuant to ~~Section 5C-6 of P.A. 86-861, to the extent practicable, the The~~ Department shall administer and enforce ~~305 ILCS 5/5C-6 P.A. 86-861, P.A. 88-88 and P.A. 89-21~~, and collect the assessments, interest, and penalty assessments imposed under the law, using procedures employed in its administration of this Code generally and, as it deems appropriate, in a manner similar to that in which the Department of Revenue administers and collects the retailers' occupation tax under the Retailers' Occupation Tax Act ("ROTA").
- j) Nothing in ~~305 ILCS 5/5C P.A. 89-21~~ shall be construed to prevent the Department from collecting all amounts due under this Section pursuant to an assessment imposed before ~~July 1, 1995 the effective date of P.A. 89-21~~.
- k) Definitions
- 1) "Adjusted gross developmentally disabled care revenue" means the developmentally disabled care provider's total revenue for inpatient residential services, less contractual allowances and discounts on patients' accounts, but does not include non-patient revenue from sources such as contributions, donations or bequests, investments, day training services, television and telephone service, rental of facility space, or sheltered care revenue. Adjusted gross developmentally disabled care revenue must be reported on an accrual basis for the tax reporting period. All patient revenue accrued during the tax reporting period must be included even though reimbursement may occur after the tax reporting period. Patient revenue must be reported on a basis that is consistent with methods used on the facility's last two cost reports.
 - 2) "Contractual Allowance" means the difference between charges at established rates and the amount estimated to be paid by third party payors or patients, as appropriate, pursuant to agreements/contracts with the developmentally disabled care provider; courtesy and policy discounts provided to employees, medical staff and clergy; and charity care, but "contractual allowance" does not mean any Provider Participation fees/taxes paid to the ~~Illinois~~ Department of Public Aid.

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- 3) "Department" means the Illinois Department of Public Aid.
- 4) "Developmentally disabled care facility" means an intermediate care facility for the mentally retarded within the meaning of Title XIX of the Social Security Act, whether public or private and whether organized for profit or not-for-profit, but shall not include any facility operated by the State.
- 5) "Developmentally disabled care provider" means a person conducting, operating, or maintaining a developmentally disabled care facility. For this purpose, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.
- 6) "Facility" means all intermediate care facilities as defined under "Developmentally disabled care facility" [\(subsection \(k\)\(4\)\)above](#).
- 7) "Fund" means the Developmentally Disabled Care Provider Fund.

(Source: Amended at 28 Ill. Reg. 14804, effective October 27, 2004)

Section 140.84 Long Term Care Provider Fund

a) Purpose and Contents

- 1) The Long Term Care Provider Fund was created in the State Treasury [on July 1, 1992, July 14, 1993 and July 1, 1995 \(see 305 ILCS 5/5B-8\)](#)~~upon enactment of Public Act 87-861, Public Act 88-88 and Public Act 89-21.~~ Interest earned by the Fund shall be credited to the Fund. The ~~Fund~~[fund](#) shall not be used to replace any funds appropriated to the Medicaid program by the General Assembly.
- 2) The Fund is created for the purpose of receiving and disbursing monies in accordance with this Section and [305 ILCS 5/5B-2 and 8](#)~~Public Act 87-861, Public Act 88-88 and Public Act 89-21.~~
- 3) The Fund shall consist of:

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- A) All monies collected or received by the Department under subsection (b) [of this Sectionbelow](#);
 - B) All federal matching funds received by the Department as a result of expenditures made by the Department that are attributable to monies deposited in the Fund;
 - C) Any interest or penalty levied in conjunction with the administration of the Fund;
 - D) All other monies received for the Fund from any other source, including interest earned thereon;
 - E) All monies transferred from the Medicaid Long Term Care Provider Participation Fee Trust Fund; and
 - F) All monies transferred from the Tobacco Products Tax Act.
- b) License Fee
Beginning on July 1, 1993, a nursing home license fee is imposed upon each nursing home provider in an amount equal to \$1.50 for each licensed nursing bed day for the calendar quarter in which the payment is due. All nursing beds subject to licensure under the Nursing Home Care Act or the Hospital Licensing Act, with the exception of swing-beds, as defined in subsection (k)(8) of this Section will be used to calculate the licensed nursing bed days for each quarter. This license fee shall not be billed or passed on to any resident of a nursing home operated by the nursing home provider. Changes in the number of licensed nursing beds will be reported to the Department quarterly, as described in subsection (d)(1) [of this Sectionbelow](#). The Department reserves the right to audit the reported data.
- c) Payment of License Fee Due
- 1) The license fee described in subsection (b) [of this Sectionabove](#) shall be due and payable in quarterly installments, on September 10, December 10, March 10, and June 10 of the year, modified to accommodate weekends and holidays. Providers will be notified, in writing, of the quarterly due dates. License fee payments postmarked on the due date will be considered as paid on time.

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- 2) All payments received by the Department shall be credited first to unpaid installment amounts (rather than to penalty or interest), beginning with the most delinquent installments.
- 3) County nursing homes directed and maintained pursuant to Section 5-1005 of the Counties Code may meet their license fee obligation by the county government certifying to the Department that county expenditures have been obligated for the operation of the county nursing home in an amount at least equal to the amount of the license fee. County governments wishing to provide such certification must:
 - A) Sign a certification form certifying that the funds represent expenditures eligible for federal financial participation under Title XIX of the Social Security Act (42 ~~USC~~[U.S.C.](#) 1396-~~et seq.~~), and that these funds are not federal funds, or are federal funds authorized by federal law to be used to match other federal funds;
 - B) Submit the certification document to the Department once a year along with a copy of that portion of the county budget showing the funds appropriated for the operation of the county nursing home. These documents must be submitted within 30 days ~~after~~[after](#) the final approval of the county budget;
 - C) Submit the monthly claim form in the amount of the rate established by the Department minus any third party liability amount. This amount will be reduced by an amount determined by the amount certified and the number of months remaining in the fiscal year, prior to payment because a certification statement was provided in lieu of an actual license fee payment; and
 - D) Make records available upon request to the Department and/or the United States Department of Health and Human Services pertaining to the certification of county funds.
- d) Reporting Requirements, Penalty, and Maintenance of Records
 - 1) On or before the due dates described in subsection (c)(1) [of this Section](#), each nursing home provider subject to a license fee under subsection (b) of this Section shall file a report with the Department reflecting any changes in the number of licensed nursing beds occurring during the reporting

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quarter. The report shall be on a form prepared by the Department. The changes will be reported quarterly and shall be submitted with the revised quarterly license fee payment. For the purpose of calculating the license fee described in subsection (b) [of this Section above](#), all changes in licensed nursing beds will be effective upon approval of the change by the Illinois Department of Public Health. Documentation showing the change in licensed nursing beds, and the date the change was approved by the Illinois Department of Public Health, must be submitted to the Department of Public Aid with the licensed nursing bed change form. If a nursing home provider operates or maintains more than one nursing home, a separate report shall be filed for each facility. In the case of a nursing home provider existing as a corporation or legal entity other than an individual, the report filed by it shall be signed by its president, vice-president, secretary, or treasurer or by its properly authorized agent.

- 2) If the nursing home provider fails to file its report for a State fiscal year on or before the due date of the report, there shall, unless waived by the Department for reasonable cause, be added to the license fee imposed in subsection (b) [of this Section above](#) a penalty fee equal to 25 percent of the license fee imposed for the year.
- 3) Every nursing home provider subject to a license fee under subsection (b) [of this Section above](#) shall keep records and books that will permit the determination of licensed nursing bed days on a quarterly basis. All such books and records shall be maintained for a minimum of three years following the filing date of the license fee report and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.
- 4) Amended License Fee Reports. With the exception of amended license fee reports filed in accordance with [subsections subsections](#) (d)(5) [of this Section below](#), an amended license fee report must be filed within 30 calendar days [of after](#) the original report due date. The amended report must be accompanied by a letter identifying the changes and the justification for the amended report. The provider will be advised of any adjustments to the original annual license fee amount through a written notification from the Department. Penalties may be applied to the amount underpaid due to a filing error.
- 5) Reconsideration of Adjusted License Fee. If the Department, through an

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audit conducted by the Department or its agent within three years after the end of the fiscal year in which the assessment license fee was due, changes the license fee liability of a nursing home provider, the nursing home provider may request a review or reconsideration of the adjusted license fee within 30 days ~~after~~ the Department's notification of the change in license fee liability. Requests for reconsideration of the license fee adjustment shall not be considered if such requests are not postmarked on or before the end of the 30 day review period. Penalties may be applied to the amount underpaid due to a filing error.

e) Procedure for Partial Year Reporting/Operating Adjustments

- 1) Cessation of business during the quarter in which the license fee is being paid and the closure date has been set. A nursing home provider who ceases to conduct, operate, or maintain a facility for which the person is subject to the license fee imposed under subsection (b) ~~of this Section~~~~above~~, and for which the closure date for the facility has been set, shall file a final report with the Department on or before the due date for the quarter in which the closure is to occur. The report will reflect the adjusted number of days the facility is open during the reporting quarter and shall be submitted with the final quarterly payment. Example: A facility is set to close on September 24. On or before the due date for the reporting quarter of July 1 through September 30, the facility will submit a final report reflecting 86 days of operation (July 1 through September 24) and the corresponding quarterly license fee payment.
- 2) Cessation of business after the quarterly due date. A nursing home provider who ceases to conduct, operate, or maintain a facility for which the person is subject to the license fee imposed under subsection (b) ~~of this Section~~~~above~~, and for which closure occurs after the due date for the reporting quarter, but prior to the last day of the reporting quarter, shall file an amended final report with the Department within 30 days ~~after~~ the closure date. The amended report will reflect the number of days the facility was operational during the reporting quarter and the revised license fee amount. Upon verifying the data submitted on the amended report, the Department will issue a refund for the amount overpaid. Example: On December 10 a facility pays the license fee for 92 days covering the reporting quarter of October 1 through December 31. The facility closes on December 27. An amended report reflecting 88 days, the actual number of days the facility was operational during the quarter

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(October 1 through December 27) must be filed with the Department.

- 3) Cessation of business prior to the quarterly due date. A nursing home provider who ceases to conduct, operate, or maintain a facility for which the person is subject to the license fee imposed under subsection (b) [of this Section~~above~~](#), and for which closure occurs prior to the due date for the reporting quarter, shall file a final report with the Department within 30 days ~~after~~ the closure date. The final report will reflect the number of days the facility was operational during the reporting quarter and the corresponding final license fee amount. Closure dates will be verified with the Department of Public Health, and if necessary adjustments will be made to the final license fee due. Example: Facility closes on January 17. On or before February 17, the facility must file a final report for the reporting quarter of January 1 through March 31. The report would reflect 17 days of operation (January 1 through January 17) during the quarter and must be accompanied by the final license fee payment for the facility.
- 4) Commencing of business during the fiscal year in which the license fee is being paid. A nursing home provider who commences conducting, operating, or maintaining a facility for which the person is subject to the license fee imposed under subsection (b) [of this Section~~above~~](#), shall file an initial report for the reporting quarter in which the commencement occurs within 30 calendar days thereafter and shall pay the license fee under subsection (d) [of this Section~~above~~](#).
- 5) Change in Ownership and/or Operators. The full quarterly assessment/license fee must be paid on the designated due dates regardless of changes in ownership or operators. Liability for the payment of the assessment/license fee amount (including past due assessment/license fees and any interest or penalties that may have accrued against the amount) rests on the nursing home provider currently operating or maintaining the nursing facility regardless if these amounts were incurred by the current owner or were incurred by previous owners. Collection of delinquent assessment/license fees from previous providers will be made against the current provider. Failure of the current provider to pay any outstanding assessment/license fee liabilities incurred by previous providers shall result in the application of penalties described in subsection (f)(1) of this Section.

- f) Penalties

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- 1) Any nursing home provider that fails to pay the full amount of an installment when due, or fails to report a change in licensed nursing beds approved by the Department of Public Health prior to the due date of the installment, shall be charged, unless waived by the Department for reasonable cause, a penalty equal to five percent of the amount of the installment not paid on or before the due date, plus five percent of the portion thereof remaining unpaid on the last day of each monthly period~~month~~ thereafter, not to exceed 100 percent of the installment amount not paid on or before the due date. Reasonable cause may include but is not limited to:
 - A) a provider who has not been delinquent on payment of an assessment due, within the last three calendar years from the time the delinquency occurs;
 - B) a provider who can demonstrate to the Department's satisfaction that a payment was made prior to the due date; or
 - C) that the provider is a new owner/operator and the late payment occurred in the quarter in which the new owner/operator assumed control of the facility.
- 2) Within 3045 days after~~from~~ the due date, the Department may begin recovery actions against delinquent nursing home providers participating in the Medicaid Program. Payments may be withheld from the provider until the entire license fee, including any penalties, is satisfied or until a reasonable repayment schedule has been approved by the Department. If a reasonable agreement cannot be reached, or if a provider fails to comply with an agreement, the Department reserves the right to recover any outstanding license fee, interest and penalty by recouping the amount or a portion thereof from the provider's future payments from the Department. The provider may appeal this recoupment in accordance with the Department's~~Department~~ rules ate~~contained in~~ 89 Ill. Adm. Code 104. The Department has the right to continue recoupment during the appeal process. Penalties pursuant to subsection (f)(1) of this Section~~above~~ will continue to accrue during the recoupment process. Recoupment proceedings against the same nursing home provider two times in a fiscal year may be cause for termination from the Program. Failure by the Department to initiate recoupment activities within 3045 days shall not

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reduce the provider's liabilities nor shall it preclude the Department from taking action at a later date.

- 3) If the nursing home provider does not participate in the Medicaid Program, or is no longer doing business with the Department, or the Department cannot recover the full amount due through the claims processing system, within three months ~~after~~ of the license fee due date, the Department may begin legal action to recover the monies, including penalties and interest owed, plus court costs.

g) Delayed Payment – Groups of Facilities

The ~~Department~~ ~~Director~~ may establish delayed payment of fees and/or waive the payment of interest and penalties for groups of facilities when:

- 1) the State delays payments to facilities due to problems related to ~~State~~ ~~state~~ cash flow; or
- 2) a cash flow bond pool's or any other group financing plans' requests from providers for loans are in excess of its scheduled proceeds such that a significant number of facilities will be unable to obtain a loan to pay the license fee.

h) Delayed Payment – Individual Facilities

In addition to the provisions of subsection (g) ~~of this Section~~ ~~above~~, the ~~Department~~ ~~Director~~ may delay license fees for individual facilities that are unable to make timely payments under this Section due to financial difficulties. No delayed payment arrangements shall extend beyond the last business day of the calendar quarter following the quarter in which the license fee was to have been received by the Department as described in subsection (c) ~~of this Section~~ ~~above~~.

- 1) Criteria. Delayed payment provisions may be instituted only under extraordinary circumstances. Delayed payment provisions shall be made only to qualified facilities who meet all of the following requirements:
 - A) the facility has experienced an emergency which necessitates institution of delayed payment provisions. Emergency in this instance is defined as a circumstance under which institution of the payment and penalty provisions described in subsections (c)(1), (c)(2), (f)(1), (f)(2) and (f)(3) ~~of this Section~~ ~~above~~ would impose severe and irreparable harm to the clients served. Circumstances

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which may create such emergencies include, but are not limited to, the following:

- i) Department system errors (either automated system or clerical) which have precluded payments, or which have caused erroneous payments such that the facility's ability to provide further services to clients is severely impaired;
 - ii) cash flow problems encountered by a facility which are unrelated to Department technical system problems and which result in extensive financial problems to a facility adversely impacting on its ability to serve its clients.
- B) the facility serves a significant number of clients under the Medical Assistance Program. Significant in this instance means:
- i) 85 percent or more of their residents must be eligible for public assistance;
 - ii) a government-owned facility, which meets the cash flow criterion under subsection (h)(1)(A)(ii) [of this Sectionabove](#).
 - iii) a provider who has filed for Chapter 11 bankruptcy, which meets cash flow ~~criteria~~ [criteria](#) under subsection (h)(1)(A)(ii) [of this Sectionabove](#).
- C) the facility must file a delay of payment request as defined under subsection (h)(3)(A) [of this Sectionbelow](#) and the request must include a Cash Position Statement which is based upon current assets, current liabilities and other data for a date which is less than 60 days prior to the date of filing. Any liabilities payable to owners or related parties must not be reported as current liabilities on the Cash Position Statement. A deferral of license fee payments will be denied if any of the following criteria are met:
- i) the ratio of current assets divided by current liabilities is greater than 2.0;
 - ii) cash, short term investments and long term investments

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equal or exceed the total of accrued wages payable and the license fee payment. Long term investments which are unavailable for expenditure for current operations due to donor restrictions or contractual requirements will not be used in this calculation;

- iii) cash or other assets has been distributed during the previous 90 days to owners or related parties in an amount equal to or exceeding the license fee payment for dividends, salaries in excess of those allowable under Section 140.541 or payments for purchase of goods or services in excess of cost as defined in Section 140.537.

D) the facility, with the exception of government owned facilities, must show evidence of denial of an application to borrow license fee funds through a cash flow bond pool or financial institutions such as a commercial bank. The denial must be 90 days old or less.

E) the facility must sign an agreement with the Department which specifies the terms and conditions of the delayed payment provisions. The agreement shall contain the following provisions:

- i) specific reason(s) for institution of the delayed payment provisions;
- ii) specific dates on which payments must be received and the amount of payment which must be received on each specific date described;
- iii) the interest or a statement of interest waiver as described in subsection (h)(5) [of this Section](#) below that shall be due from the facility as a result of institution of the delayed payment provisions;
- iv) a certification stating that, should the entity be sold, the new owners will be made aware of the liability and any agreement selling the entity will include provisions that the new owners will assume responsibility for repaying the debt to the Department according to the original agreement;

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- v) a certification stating that all information submitted to the Department in support of the delayed payment request is true and accurate to the best of the signator's knowledge; and
 - vi) such other terms and conditions that may be required by the Department.
- 2) A facility ~~that~~^{which} does not meet the above criteria may request a delayed payment schedule ~~and/or the waiver of interest and penalties~~. The ~~Department Director~~ may approve the request, notwithstanding the facility not meeting the above criteria, upon a sufficient showing of financial difficulties and good cause by the facility. If the request for a delayed payment schedule ~~and/or waiver of interest and penalties~~ is approved, all other conditions of this subsection (h) shall apply.
- 3) Approval Process
- A) In order to receive consideration for delayed payment provisions, facilities must submit their request in writing (telefax requests are acceptable) to the Bureau of Program and Reimbursement Analysis. The request must be received by the due date designated by the Department. Providers will be notified, in writing, of the due dates for submitting delay of payment requests. Requests must be complete and contain all required information before they are considered to have met the time requirements for filing a delayed payment request. All telefax requests must be followed up with original written requests, postmarked no later than the date of the telefax. The request must include:
 - i) an explanation of the circumstances creating the need for the delayed payment provisions;
 - ii) supportive documentation to substantiate the emergency nature of the request including a cash position statement as defined in subsection (h)(1)(C) ~~of this Section above~~; a denial of application to borrow the license fee as defined in subsection (h)(1)(D) ~~of this Section above~~ and an explanation of the risk of irreparable harm to the clients;

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and

- iii) specification of the specific arrangements requested by the facility.
- B) The facility shall be notified by the Department, in writing prior to the license fee due date, of the Department's decision with regard to the request for institution of delayed payment provisions. An agreement shall be issued to the facility for all approved requests. The agreement must be signed by the administrator, owner or other authorized representative and be received by the Department prior to the first scheduled payment date listed in such agreement.
- 4) Waiver of Penalties. The penalties described in subsections (f)(1) and (f)(2) [of this Section above](#) may be waived upon approval of the facility's request for institution of delayed payment provisions. In the event a facility's request for institution of delayed payment provisions is approved and the Department has received the signed agreement in accordance with subsection (h)(3)(B) [of this Section above](#), such penalties shall be permanently waived for the subject quarter unless the facility fails to meet all of the terms and conditions of the agreement. In the event the facility fails to meet all of the terms and conditions of the agreement, the agreement shall be considered null and void and such penalties shall be fully reinstated.
- 5) Interest. The delayed payments shall include interest at a rate not to exceed the State of Illinois borrowing rate. The applicable interest rate shall be identified in the agreement described in subsection (h)(1)(E) [of this Section above](#). The interest may be waived by the [Department Director](#) if the facility's current ratio, as described in subsection (h)(1)(C) [of this Section above](#), is 1.5 or less and the facility meets the criteria in [subsections](#) (h)(1)(A) and (B) [of this Section](#). Any such waivers granted shall be expressly identified in the agreement described in subsection (h)(1)(E) [of this Section above](#).
- 6) Subsequent Delayed Payment Arrangements. Once a facility has requested and received approval for delayed payment arrangements, the facility shall not receive approval for subsequent

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delayed payment arrangements until such time as the terms and conditions of any current delayed payment agreement have been satisfied or unless the provider is in full compliance with the terms of the current delay of payment agreement. The waiver of penalties described in subsection (h)(4) of this Section~~above~~ shall not apply to a facility that has not satisfied the terms and conditions of any current delayed payment agreement.

- i) Administration and Enforcement Provisions — ~~enforcement provisions~~
~~Pursuant to Section 5B-7 of P.A. 87-861, to the extent practicable, the~~ The Department shall administer and enforce 305 ILCS 5/5B-7~~P.A. 86-861, P.A. 88-88 and P.A. 89-21~~, and collect the license fees, interest, and penalty fees imposed under the law, using procedures employed in its administration of this Code generally and, as it deems appropriate, in a manner similar to that in which the Department of Revenue administers and collects the retailers' occupation tax under the Retailers' Occupation Tax Act ("ROTA").
- j) Nothing in 305 ILCS 5/5B~~P.A. 89-21~~ shall be construed to prevent the Department from collecting all amounts due under this Section pursuant to an assessment imposed before July 1, 1995~~the effective date of P.A. 89-21~~.
- k) Definitions
As used in this Section, unless the context requires otherwise:
- 1) "Department" means the Illinois Department of Public Aid.
 - 2) "Fund" means the Long-Term Care Provider Fund.
 - 3) "Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital, regardless of whether the person is a Medicaid provider. For purposes of this definition, "person" means any political subdivision of the State, municipal corporation, individual firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.
 - 4) "Licensed nursing bed days" means, with respect to a nursing home provider, the sum for all nursing beds, with the exception of swing-beds, as described in subsection (k)(8) of this Section, of the number of days

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during a calendar quarter on which each bed is covered by a license issued to that provider under the Nursing Home Care Act or the Hospital Licensing Act.

- 5) "Nursing home" means a skilled nursing or intermediate long-term care facility, whether public or private and whether organized for profit or not-for-profit, that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act, including a county nursing home directed and maintained under Section 5-1005 of the Counties Code; and a part of a hospital in which skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act are provided. However, the term "nursing home" does not include a facility operated solely as an intermediate care facility for the mentally retarded within the meaning on Title XIX of the Social Security Act.
- 6) "Nursing home provider" means a person licensed by the Department of Public Health to operate and maintain a skilled nursing or intermediate long-term care facility which charges its residents, a third party payor, Medicaid, of Medicare for skilled nursing or intermediate long-term care services; or a hospital provider that provides skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act.
- 7) "Person" means, in addition to natural persons, any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.
- 8) "Swing-beds" means those beds for which a hospital provider has been granted an approval from the federal Health Care Financing Administration to provide post-hospital extended care services (42 CFR 409.30, October 1, 1991) and be reimbursed as a swing-bed hospital (42 CFR 413.114, October 1, 1991).

(Source: Amended at 28 Ill. Reg. 14804, effective October 27, 2004)

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.2185 Adopted Action:
New Section
- 4) Statutory Authority: 35 ILCS 5/213
- 5) Effective Date of Amendment: October 26, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this adopted amendment contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 28 Ill. Reg. 9225; July 9, 2004
- 10) Has JCAR issued a Statement of Objection to this adopted amendment? No
- 11) Difference between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this adopted amendment replace an emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
100.9030	New Section	28 Ill. Reg. 4091; 3/05/04
100.9040	New Section	28 Ill. Reg. 4091; 3/05/04
100.9050	New Section	28 Ill. Reg. 4091; 3/05/04
100.9060	New Section	28 Ill. Reg. 4091; 3/05/04
100.9700	Amendment	28 Ill. Reg. 4509; 3/12/04
100.2196	New Section	28 Ill. Reg. 12778; 9/17/04

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- 15) Summary and Purpose of Amendment: This rulemaking provides guidance for taxpayers wishing to claim the film production services credit allowed under 35 ILCS 5/213.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Paul Caselton
Deputy General Counsel - Income Tax
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

Phone: (217) 782-7055

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section	
100.2000	Introduction
100.2050	Net Income (IITA Section 202)

SUBPART B: CREDITS

Section	
100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone (IITA 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2185	Film Production Services Credit (IITA 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2197	Foreign Tax Credit (IITA Section 601(b)(3))
100.2198	Economic Development for a Growing Economy Credit (IITA 211)
100.2199	Illinois Earned Income Tax Credit (IITA 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section	
100.2200	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business

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- Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

- Section
- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF

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INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section

- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section

- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF
BASE INCOME

Section

- 100.3000 Terms Used in Article 3 (IITA Section 301)
- 100.3010 Business and Nonbusiness Income (IITA Section 301)
- 100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION

Section

- 100.3100 Compensation (IITA Section 302)
- 100.3110 State (IITA Section 302)

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100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3200 Taxability in Other State (IITA Section 303)
100.3210 Commercial Domicile (IITA Section 303)
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
100.3310 Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330 Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
100.3370 Sales Factor (IITA Section 304)
100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400 Apportionment of Business Income of Financial Organizations (IITA Section 304(c))
100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section

100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section

100.5000 Time for Filing Returns: Individuals (IITA Section 505)
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)

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- 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in
Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years
(IITA Section 506)
100.5040 Innocent Spouses
100.5050 Frivolous Returns

SUBPART O: COMPOSITE RETURNS

Section

- 100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credits for Resident Individuals
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section

- 100.5200 Filing of Combined Returns
100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205 Election to File a Combined Return
100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
100.5215 Filing of Separate Unitary Returns
100.5220 Designated Agent for the Members
100.5230 Combined Estimated Tax Payments
100.5240 Claims for Credit of Overpayments
100.5250 Liability for Combined Tax, Penalty and Interest
100.5260 Combined Amended Returns
100.5265 Common Taxable Year
100.5270 Computation of Combined Net Income and Tax
100.5280 Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section

- 100.7000 Requirement of Withholding (IITA Section 701)

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100.7010	Compensation Paid in this State (IITA Section 701)
100.7020	Transacting Business Within this State (IITA Section 701)
100.7030	Payments to Residents (IITA Section 701)
100.7040	Employer Registration (IITA Section 701)
100.7050	Computation of Amount Withheld (IITA Section 702)
100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section

100.7100	Withholding Exemption (IITA Section 702)
100.7110	Withholding Exemption Certificate (IITA Section 702)
100.7120	Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section

100.7200	Reports for Employee (IITA Section 703)
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SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

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100.7300	Returns of Income Tax Withheld from Wages (IITA Section 704)
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100.7320	Time for Filing Returns (IITA Section 704)
100.7330	Payment of Tax Deducted and Withheld (IITA Section 704)
100.7340	Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section

100.9000	General Income Tax Procedures (IITA Section 901)
100.9010	Collection Authority (IITA Section 901)
100.9020	Child Support Collection (IITA Section 901)

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100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

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100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

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100.9300 Deficiencies and Overpayments (IITA Section 904)
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

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Section
100.9400 Credits and Refunds (IITA Section 909)
100.9410 Limitations on Claims for Refund (IITA Section 911)
100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section
100.9500 Access to Books and Records (IITA Section 913)
100.9505 Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
100.9510 Taxpayer Representation and Practice Requirements
100.9520 Conduct of Investigations and Hearings (IITA Section 914)
100.9530 Books and Records

SUBPART AA: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

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Section

100.9700	Unitary Business Group Defined (IITA Section 1501)
100.9710	Financial Organizations (IITA Section 1501)
100.9720	Nexus
100.9750	Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section

100.9800 Letter Ruling Procedures

100.APPENDIX A Business Income Of Persons Other Than Residents

100.TABLE A Example of Unitary Business Apportionment

100.TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990;

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amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; amended at 28 Ill. Reg. 14868, effective October 26, 2004.

Section 100.2185 Film Production Services Credit (IITA 213)

- a) For taxable years beginning on or after January 1, 2004, a taxpayer awarded a credit under the Film Production Services Tax Act [35 ILCS 15] is entitled to a credit against the taxes imposed under subsections (a) and (b) of IITA Section 201 in an amount determined by the Department of Commerce and Economic

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Opportunity (IITA Section 213). The amount of the credit shall be the amount shown on the Final Film Tax Credit Certificate issued by the Department of Commerce and Economic Opportunity under 14 Ill. Adm. Code 528.80.

- b) Year in which Credit is Taken. The credit allowed under this Section shall be taken in the taxable year in which the Final Film Tax Credit Certificate is issued by the Department of Commerce and Economic Opportunity under 14 Ill. Adm. Code 528.80.
- c) In the case of a credit earned by a partnership or Subchapter S corporation, the credit passes through to the owners as provided in the partnership agreement under IRC Section 704(a) or in proportion to their ownership of the stock of the Subchapter S corporation under IRC Section 1366(a). The credit earned by a partnership or Subchapter S corporation will be treated as earned by its owners as of the last day of the taxable year of the partnership or Subchapter S corporation in which the Final Film Tax Credit Certificate is issued by the Department of Commerce and Economic Opportunity under 14 Ill. Adm. Code 528.80 and shall be allowed to each owner in the taxable year of the owner in which the taxable year of the partnership or Subchapter S corporation ends.
- d) *The credit may not be carried forward or back. In no event shall a credit under this Section reduce the taxpayer's liability to less than zero. (IITA Section 213)*
- e) Documentation of the Credit. A taxpayer claiming the credit allowed under this Section shall attach to its Illinois income tax return a copy of the Final Film Tax Credit Certificate issued by the Department of Commerce and Economic Opportunity and, in the case of a partner in a partnership or a shareholder of a Subchapter S corporation that earned the credit, a Schedule K-1-P or other written statement from the partnership or Subchapter S corporation stating the portion of the total credit shown on the Final Film Tax Credit Certificate that is allowed to that partner or shareholder and the taxable year of the partnership or Subchapter S corporation in which the Final Film Tax Credit Certificate was issued.

(Source: Added at 28 Ill. Reg. 14868, effective October 26, 2004)

DEPARTMENT OF STATE POLICE

NOTICE OF WITHDRAWAL TO MEET THE OBJECTION AND RECOMMENDATION OF
THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Evidence Disposal Procedures
- 2) Code Citation: 20 Ill. Adm. Code 1226
- 3)

<u>Section Numbers:</u>	<u>Action:</u>
1226.10	Withdrawal
1226.20	Withdrawal
1226.30	Withdrawal
1226.40	Withdrawal
1226.50	Withdrawal
- 4) Date Notice of Proposed Amendments Published in the Register: 28 Ill. Reg. 8837; June 25, 2004
- 5) Date JCAR Statement of Objection Published in the Register: 28 Ill. Reg. 14294; October 29, 2004
- 6) Summary of Action Taken by the Agency: The Department agrees to withdraw this rulemaking in its entirety to allow further deliberation and consultation. In addition, the Department agrees to pursue further statutory guidance to develop and propose appropriate rules for the destruction of evidence and report our plans to JCAR within six months.

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 26, 2004 through November 1, 2004 and have been scheduled for review by the Committee at its November 9, 2004 meeting in Springfield or its December 14, 2004 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
12/10/04	<u>Department of Transportation</u> , Motor Carrier Safety Regulations: General (92 Ill. Adm. Code 390)	9/10/04 28 Ill. Reg. 12566	11/9/04
12/10/04	<u>Department of Revenue</u> , Property Tax Code (86 Ill. Adm. Code 110)	9/3/04 28 Ill. Reg. 12402	11/9/04
12/15/04	<u>Sex Offender Management Board</u> , Interim Sex Offender Evaluations and Treatment (20 Ill. Adm. Code 1905)	6/11/04 28 Ill. Reg. 7900	12/14/04
12/15/04	<u>Department of Natural Resources</u> , General Hunting and Trapping on Department-Owned or -Managed Sites (17 Ill. Adm. Code 510)	9/10/04 28 Ill. Reg. 12548	12/14/04
12/15/04	<u>Department of Central Management Services</u> , Pay Plan (80 Ill. Adm. Code 310)	8/13/04 28 Ill. Reg. 11532	12/14/04

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2004 THIRD QUARTER SUNSHINE INDEX

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register: Illinois Department of Revenue Sunshine Act [20 ILCS 2515]

2. Summary of information:

Index of Department of Revenue income 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:

Apportionment – Sales Factor
Returns – Requirements To File
Subtraction Modifications – Military - Pensions
Subtraction Modifications – Other Rulings
Withholding – Other Rulings

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50 cents 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 indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002 and 2003 are available for \$3.00. A cumulative

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2004 THIRD QUARTER SUNSHINE INDEX

Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

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

Linda Settle
Illinois Department of Revenue
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794

Telephone: (217) 782-7055

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2004 THIRD QUARTER SUNSHINE INDEX

APPORTIONMENT – SALES FACTOR

- IT 04-0029-GIL 07/27/2004 Sales factor treatment of receipts from rental of tangible personal property explained.
- IT 04-0030-GIL 07/28/2004 Throwback rule applied to various situations.
- IT 04-0033-GIL 08/18/2004 A taxpayer storing its stock-in-trade in Illinois would have nexus with this State and would be required to include in its sales factor numerator gross receipts from goods delivered from Illinois to purchasers in states in which it is not taxable.

RETURNS – REQUIREMENTS TO FILE

- IT 04-0031-GIL 07/29/2004 Federal change returns explained.

SUBTRACTION MODIFICATIONS – MILITARY – PENSION

- IT 04-0032-GIL 08/04/2004 Voluntary Separation Incentive Pay received by a civilian governmental employee may not be subtracted as military pay nor as government retirement pay.

SUBTRACTION MODIFICATIONS – OTHER RULINGS

- IT 04-0001-PLR 09/22/2004 Income distributable to a partner that is a charitable remainder unitrust may be subtracted under IITA Section 203(d)(2)(I).
- IT 04-0002-PLR 09/22/2004 Amounts payable to a retired partner under the partnership's retirement plan may be subtracted as compensation for personal services under IITA Section 203(d)(2)(H).
- IT 04-0003-PLR 09/22/2004 Distribution received by a retired partner from the partnership in exchange for rights to future retirement payments is retirement income that may be subtracted under IITA Section

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NOTICE OF PUBLIC INFORMATION

2004 THIRD QUARTER SUNSHINE INDEX

203(a)(2)(F).

WITHHOLDING – OTHER RULINGS

IT 04-0034-GIL 09/10/2004 Withholding is required from a nonresident employee only if the compensation is "paid in this State."

IT 04-0035-GIL 09/21/2004 Withholding is required from a nonresident employee only if the compensation is "paid in this State."

PROCLAMATIONS

2004-313**Service Week 2004**

WHEREAS, volunteerism and community service are essential elements of practicing good citizenship; and

WHEREAS, Alpha Phi Omega (APO) is a national service fraternity that puts forth nationwide efforts to promote volunteerism on college campuses, and in their greater communities; and

WHEREAS, each year, APO sponsors Service Week, which is an opportunity to create awareness across the country of the importance of community service; and

WHEREAS, 2004 marks the 15th Anniversary of Service Week, and the theme for this year, "Building a Sound Body," encourages citizens to practice healthy lifestyle habits; and

WHEREAS, for Service Week 2004, the local APO Chapter at Southern Illinois University Edwardsville plans to hold a food drive, distribute information on wellness, provide meals for the homeless, promote exercise and nutrition among students, sponsor a blood drive, entertain residents at nursing homes, and participate in activities with the Muscular Dystrophy Association and Edwardsville Lions Club; and

WHEREAS, my administration is proud to join APO in promoting volunteerism and community service, especially among young people. Last year, we proposed new legislation that would require all high school students to complete 40 community service hours in order to graduate. We feel that this would greatly help young people learn the values and responsibilities of being a good citizen:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim November 1 – 7, 2004 as SERVICE WEEK 2004 in Illinois, and encourage all citizens to assist in improving the state of their communities through service and volunteerism.

Issued by the Governor October 26, 2004.

Filed by the Secretary of State October 27, 2004.

2004-314**Sunny Ridge Day**

WHEREAS, the Sunny Ridge Family Center began as a home for neglected and homeless children in 1926 by Reverend John Klingberg, a Swedish immigrant. Originally called the Klingberg Children's Home of Chicago, the agency changed its name in 1953 after the purchase of their current headquarters in Wheaton, Illinois; and

WHEREAS, Sunny Ridge currently serves approximately 150 women each year who are faced with unplanned pregnancies, offering a foster home for them and their infants once they are born; and

WHEREAS, the Sunny Ridge Family Center also has an adoption program that has helped place over 2,900 children from 46 countries into loving homes; and

PROCLAMATIONS

WHEREAS, through all of their programs, the Center helps approximately 250 adoptive applicants, 150 birth parent families and 25 foster families each year; and

WHEREAS, according to the 2000 U.S. Census Bureau, over 1.7 million households are home to adoptive children. With that in mind, this month of November has been proclaimed National Adoption Month to celebrate the efforts of the caring families that decide to adopt, and to encourage more families to consider adoption; and

WHEREAS, the Illinois Department of Children and Family Services works diligently each day to place orphaned children into loving and nurturing families. Their efforts have resulted in the placement of over 48,000 Illinois children since 1976; and

WHEREAS, over the last 78 years, Sunny Ridge Family Center has been a rock in the Wheaton community and has displayed an outstanding commitment to ensuring the safety and well-being of children all across the world. The State of Illinois is proud to join them in that critical mission:

THEREFORE, I, Rod Blagojevich, Governor of Illinois, do hereby proclaim November 12, 2004 as SUNNY RIDGE DAY in Illinois, and encourage citizens to be cognizant of the dedication and care that this organization has shown over the years.

Issued by the Governor October 27, 2004.

Filed by the Secretary of State October 27, 2004.

2004-315**American Pharmacists Month**

WHEREAS, pharmacists serve as an immediate link between the community and the healthcare industry. Citizens rely on pharmacists to provide them with their prescribed medications, as well as offer important information regarding the usage and safety precautions of medications; and

WHEREAS, in addition to the pharmacists who work in community and chain pharmacies, the profession of pharmacy is also practiced in a wide- range of settings, including hospitals, long term care facilities, the pharmaceutical industry, mail service programs, academia and government; and

WHEREAS, in order for one to become a pharmacist, they must commit to extensive education and training. Individuals must now obtain a Doctorate of Pharmacy degree in order to legally practice as a licensed pharmacist in this country. This education and training ensures that pharmacists are the most knowledgeable in the healthcare industry when it comes to medicines and their uses; and

WHEREAS, there are currently over 10,000 pharmacists practicing in Illinois, and each of them works hard every day to provide services that seek to improve medication use and advance patient care; and

WHEREAS, this year, the American Pharmacists Association, along with local chapters such as the Illinois Pharmacists Association, is launching the first ever American Pharmacists Month, which will serve as an opportunity to celebrate the achievements of pharmacists and

PROCLAMATIONS

pharmacy staff in the United States, as well as educate consumers on the vital role that pharmacists play in ensuring their health and well-being:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 2004 as AMERICAN PHARMACISTS MONTH in Illinois, and encourage all citizens to respect the work of pharmacists and their contributions to the healthcare industry.

Issued by the Governor October 27, 2004.

Filed by the Secretary of State October 27, 2004.

2004-316**World War II Illinois Veterans Memorial Dedication Day**

WHEREAS, on December 7, 1941 the United States of America entered World War II, the greatest conflict in modern human history; and

WHEREAS, during this conflict, American citizens of all races, creeds, and nationalities responded to the call for service and joined up to fight for their county; and

WHEREAS, these noble officers, enlisted men, and civilian volunteers joined the Allied Forces throughout the world to defeat the Axis Powers and preserve liberty, freedom, and human dignity for all people; and

WHEREAS, the proud State of Illinois sent 987,000 citizens to fight and aid in the military efforts during World War II, and 22,000 of those were killed as a result of the conflict; and

WHEREAS, the World War II Illinois Veterans Memorial in Springfield serves to honor the memory of the Illinois veterans who served the United States of America during the world's most desperate hour:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim December 4, 2004 as WORLD WAR II ILLINOIS VETERANS MEMORIAL DEDICATION DAY in Illinois, and encourage all citizens to take the time to recognize the immeasurable contributions made by those in service to their country.

Issued by the Governor October 28, 2004.

Filed by the Secretary of State October 28, 2004.

2004-317**Hire a Veteran Month**

WHEREAS, in times of peace and war, the men and women of the United States Army, Navy, Marines, Air Force, and Coast Guard have carried out their duty and provided immeasurable service to our nation, their fellow citizens, and the people of the world; and

WHEREAS, of the tens of millions of officers, soldiers, and civilians who have served in the United States Armed Forces, more than one million have lost their lives in defense of American freedom; and

PROCLAMATIONS

WHEREAS, according to the 2000 U.S. Census, there are approximately twenty-six million veterans in the United States, one million of which live in Illinois. Many of these former service men and women are currently unemployed; and

WHEREAS, the United States of America seeks to provide educational, employment, medical, and other assistance to its veterans, who have so honorably sacrificed for others and placed the needs of others above their own; and

WHEREAS, employers—and all citizens—should be aware that our veterans have diverse capabilities, a broad range of skills, multifaceted training, and proven character:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim the month of November 2004 as HIRE A VETERAN MONTH in Illinois, and encourage all businesses and places of employment to consider providing job opportunities for those who have served in our Armed Forces.

Issued by the Governor October 28, 2004.

Filed by the Secretary of State October 28, 2004.

2004-318**Weatherization Day**

WHEREAS, the average American family spends more than \$1,500 annually on utility bills; and

WHEREAS, weatherization is a set of measures intended to decrease heat gain and/or heat loss and energy consumption; and

WHEREAS, the average savings in energy costs of having a weatherized home is more than \$300 annually, allowing families to spend income on other necessities such as health care and other living expenses; and

WHEREAS, carbon dioxide emissions are reduced by an average of one ton per weatherized household, reducing the pollution levels in Illinois by over 6,100 tons per year; and

WHEREAS, further benefits of weatherization include: increased property values, reduced water consumption and lower water and sewer bills, along with improved health and safety conditions; and

WHEREAS, the Illinois Weatherization Assistance Program, administered by the Illinois Department of Public Aid, works in conjunction with a statewide network of 35 community action agencies to reduce the burden of energy expenses on low income families through weatherizing homes; and

WHEREAS, more than 5 million homes have been weatherized since the inception of the program in 1977:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim October 30, 2004 as WEATHERIZATION DAY in Illinois, and encourage all Illinoisans to consider weatherizing their homes in the effort to save money, keep their homes safe, conserve energy and reduce pollution.

Issued by the Governor October 28, 2004.

Filed by the Secretary of State October 28, 2004.

PROCLAMATIONS

2004-319**Geography Awareness Week and Geographic Information Science Day**

WHEREAS, the study of geography is a significant component to a well-rounded education, allowing students to appreciate and understand the world around them; and

WHEREAS, technological innovations such as map making, socioeconomic analyses, and navigational aids, have increased the usage and applicability of geography in academics, business, and everyday life; and

WHEREAS, in 1987 the National Geographic Society, with the support of President Ronald Reagan, established Geography Awareness Week, which seeks to promote geographic literacy in schools, communities, and organizations; and

WHEREAS, Geographic Information Science Day is a grassroots event that unites geographic information systems users and vendors with schools, businesses, and the general public to showcase real-world applications of this important technology; and,

WHEREAS, Geography Awareness Week and Geographic Information Science Day have garnered support from the National Geographic Society, the Library of Congress, software corporations, numerous academic associations, and the governments of ninety-one nations around the world:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim November 14-20, 2004 as GEOGRAPHY AWARENESS WEEK and November 17, 2004 as GEOGRAPHIC INFORMATION SCIENCE DAY in Illinois, and encourage all citizens to recognize the importance of geography in our society.

Issued by the Governor November 1, 2004.

Filed by the Secretary of State November 1, 2004.

ILLINOIS ADMINISTRATIVE CODE

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