

2005

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Illinois Credit Union Act
- 2) Code Citation: 38 Ill. Adm. Code 190
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
190.140	Amendment
190.160	Amendment
- 4) Statutory Authority: Illinois Credit Union Act [205 ILCS 305]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking increases the limits imposed by the Division of Financial Institutions that a credit union may lend to a member for each category reflected in Section 190.140 and Section 190.160. The limits have not been raised since 1996 and therefore do not accurately reflect the increases in the Consumer Price Index, the median house prices in Illinois and the economic growth of credit unions.
- 6) Will these proposed amendments replace any emergency amendments currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

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

217/785-0813
Fax #: 217/782-7645

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Credit unions providing services to their members.
 - 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: January 2005

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 190

ILLINOIS CREDIT UNION ACT

SUBPART A: GENERAL PROVISIONS

Section

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190.130	Verification of Share and Loan Accounts
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190.500	Definitions
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190.510	Good Faith Requirements

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

190.515	Fraudulent or Deceptive Practices
190.520	Prohibited Refinances
190.525	Negative Amortization
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190.560	Payments to Contractors
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190.570	Mortgage Awareness Program
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190.580	Third Party Review

190.APPENDIX A Estimated Monthly Income and Expenses Worksheet

190.APPENDIX B Mortgage Ratio Worksheet

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

SOURCE: Adopted at 4 Ill. Reg. 20, p. 17, effective May 7, 1980; amended at 6 Ill. Reg. 11154, effective September 7, 1982; amended and codified at 7 Ill. Reg. 14973, effective October 26, 1983; emergency amendment at 9 Ill. Reg. 14378, effective September 11, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 16231, effective October 10, 1985; amended at 10 Ill. Reg. 14667, effective August 27, 1986; amended at 12 Ill. Reg. 10464, effective June 7, 1988; amended at 12 Ill. Reg. 17383, effective October 24, 1988; amended at 13 Ill. Reg. 3793, effective March 10, 1989; amended at 13 Ill. Reg. 15998, effective October 2, 1989; emergency amendment at 16 Ill. Reg. 12781, effective July 29, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17073, effective October 26, 1992; amended at 19 Ill. Reg. 2826, effective February 24, 1995; amended at 20 Ill. Reg. 5803, effective April 8, 1996; emergency amendment at 20 Ill. Reg. 13093, effective September 27, 1996, for a maximum of 150 days; emergency expired February 17, 1997; amended at 22 Ill. Reg. 17317, effective September 15, 1998; emergency amendment at 23 Ill. Reg. 3086, effective February 23, 1999, for a maximum of 150 days; emergency expired July 22, 1999; amended at 23 Ill. Reg. 12614, effective October 4, 1999; amended at 23 Ill. Reg. 14031, effective November 12, 1999; amended at 25 Ill. Reg. 6244, effective May 17, 2001; amended at 25 Ill. Reg. 13278, effective October 19, 2001; amended at 26 Ill. Reg. 17999, effective December 9, 2002; amended at 28 Ill. Reg. 11699, effective July 29, 2004; amended at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 190.140 Real Estate Lending

- a) A Credit Union with total assets greater than ~~\$14.0~~ million may, following a resolution of its Board, make loans secured by a lien on real estate, [including an assignment of a beneficial interest in a land trust](#), subject to the following procedures:

Total Assets of a Credit Union	Maximum Amount of Loans Secured by Real Estate	Aggregate of All First Mortgage Loans Secured by Real Estate
Under \$14.0 million	Lending Limits for Consumer Loans	0% of total assets
\$14.0 - 2.5 million	\$165,000* 100,000	25% of total assets
\$2.5 - 55.0 million	\$250,000* 150,000	30% of total assets
\$55.0 - 1040.0 million	\$330,000 200,000	35% of total assets
\$1040.0 - 3030.0 million	\$580,000 350,000	40% of total assets
\$30 - 100 million	\$825,000	45% of total assets
Over \$100 million	\$1,000,000	50% of total assets
over \$30 million	\$500,000	45% of total assets

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

- b) Credit unions with assets under ~~\$14.0~~ million may make home equity and second mortgage loans subject to the lending limits for consumer loans set forth in 38 Ill. Adm. Code 190.160. Credit Unions with assets under ~~\$14.0~~ million shall not make first mortgage real estate loans.
- c) Credit unions shall not make first mortgage real estate loans for more than the estimated market value or appraised value of the real estate securing the loans. Real estate loans, other than first mortgage loans, shall be limited to the value of the member-borrower's equity in the real estate securing the loan, [provided a credit union may consider as equity any outstanding loan amount secured by the real estate if the outstanding loan will be repaid with the proceeds of the credit union's loan](#).
- d) The maximum individual lending limit and the maximum ratio of first mortgage real estate loans may be increased by obtaining written approval from the

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Director. Such approval is to be based upon the need of the members and the credit union's real estate lending record.

- e) The maximum limit on an individual loan by credit unions with assets greater than ~~\$14.0~~ million is in addition to the secured and unsecured lending limits of Section 190.160 of this Part; provided, however, in no event shall all loans to any member exceed in the aggregate 10% of the credit union's unimpaired capital and surplus as defined in Section 190.2 of this Part. Loans subject to the requirements for business loans set forth in Section 190.165 of this Part shall be subject to the appraisal requirements of subsection (h), but shall not be subject to the other provisions of this Section.
- f) The maximum maturity of a loan secured by a first mortgage shall not exceed 30 years.
- g) Procedures
 - 1) All loans secured by a lien on real estate shall be made based upon prudent written lending policies and sound lending practices as documented in each member's loan file. Unless waived by the Director, lending policies shall include, without limitation, acceptable debt-to-income and loan-to-value ratios that will be considered the types of real estate security that will be accepted and any other prudent data considered necessary to determine the appropriateness of a loan request. All applicable State and Federal statutes shall be observed.
 - 2) All accounting for real estate loan transactions shall be in accordance with generally accepted accounting principles.
- h) Documentation
 - 1) Any credit union granting loans secured by a lien in real estate must procure and retain the following documentation in its files:
 - A) A loan application that specifies the purpose of the loan (equity, purchase, construction, refinance, etc.). The application must contain sufficient information to support the approval of the loan. Such information shall include without limitation: the amount of the loan requested; the purchase price (if applicable); a listing of the borrower's assets and liabilities; a statement of the borrower's

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income; a specific identification of the property; and an explanation of the source of the borrower's down payment. If the loan proceeds will be used for the purchase of the property, a copy of the real estate sale contract shall be included as an attachment to the application.

- B) A legal opinion from the credit union's attorney, or a title insurance policy that identifies the credit union's lien position on the property used to secure the loan. In the case of home equity lines of credit and second mortgages, a title search prepared by a service provider capable of conducting such a search shall be acceptable.
- C) For transactions of \$250,000 or less, a written estimate of market value of the property securing the loan, performed by an individual having no direct or indirect interest in the property and experienced to perform such estimations of value for the type and amount of credit being considered. For transactions over \$250,000, an appraisal by a state certified or licensed appraiser which estimates the market value of the property used as security for the loan.
- D) A credit report prepared by the credit union or a credit reporting agency. The report, in conjunction with the information contained in subsection (h)(1)(A) ~~above~~, must demonstrate the applicant's past history of repayment and ability to repay the loan in question.
- E) A duly executed note and mortgage agreement that outline the borrower's agreement to repay the loan on the terms agreed, and the borrower's agreement to provide the credit union with a valid security interest in the subject property. The mortgage agreement must contain an accurate legal description of the subject property and be duly recorded in the office of the appropriate county recorder of deeds.
- F) A settlement statement reflecting all costs of closing and all disbursements of funds at closing for real estate loans that require the use of a settlement statement under the Real Estate Settlement Procedures Act.
- G) On any loan where the lesser of the loan-to-value ratio or loan-to-purchase price ratio exceeds 80%, the credit union may require the

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borrower to obtain private mortgage insurance insuring the excess of the loan above the 80% factor.

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

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- C) The terms of the transaction are not more favorable than they would have been in the absence of the lien on real estate.
 - D) The transaction complies with the lending limits and other requirements for consumer loans set forth in Section 190.160 of this Part.
- i) Sale of Real Estate Loans
- 1) A credit union may sell, in whole or in part, any loan secured by real estate to:
 - A) Federal National Mortgage Association
 - B) Government National Mortgage Association
 - C) Federal Home Loan Mortgage Corporation
 - D) Federal, State and Local Housing Authorities
 - E) Federal or State Chartered Credit Unions, Banks, and Savings and Loan Associations
 - F) Residential mortgage licensees properly registered with and licensed by the Illinois Director~~Commissioner~~ of Banks and Real Estate~~Savings and Residential Finance~~
 - G) Such other institutions as approved by the Director
 - 2) All such sales shall not be subject to recourse or repurchase that enables the credit union to retain control over the transferred assets. The credit union shall have surrendered control over the transferred assets if~~except for the following:~~
 - A) The transferred assets have been put presumptively beyond the reach of the credit union transferring the assets and its creditors~~where the repurchase is at the seller's option;~~
 - B) The purchaser has the right to pledge or exchange the assets;~~and where agreement allows substitutions of one loan for another;~~

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- C) The credit union does not maintain effective control over the transferred assets through an agreement that both entitles and obligates the credit union to repurchase the assets before their maturity where an agreement requires repurchase because of breach of warranty or misrepresentation.

A limited recourse provision in a sale agreement that obligates the credit union transferring assets to purchase the assets because of breach of warranty or misrepresentation shall be considered a sale.

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

Section 190.160 Lending Limits – Consumer Loans

- a) The Board of Directors of a credit union shall, for loans other than loans secured by an interest in real estate, establish the maximum lending limits which shall not exceed the limits in the following schedule. A credit union may request approval from the Director for an exception to these limits, which shall be in writing substantiating the need for higher limits, detail the credit union's record of lending activity, and shall include financial statements reflecting sound fiscal history. In no event shall all loans to any member exceed in the aggregate 10% of the credit union's unimpaired capital and surplus as defined in Section 190.2 of this Part.

Total Credit Union Assets	Maximum Unsecured Limit, <u>Including</u> <u>Unsecured Credit Cards</u>	Maximum Secured Limit
\$ 0 = \$50,000	\$ 750 *	\$ 5,000 *
50,000 = 200,000	1,500 *	15,000 *
200,000 = 500,000	2,500	20,000
\$0 = 500,000	\$3,500 *	\$25,000 *
\$500,000 – 1+0 million	\$6,500 5,000	\$31,500 25,000
\$1+0 – 55-0 million	\$12,500 10,000	\$50,000 40,000
\$55-0 – 10+0-0 million	\$15,000 12,000	\$62,500 50,000
10+0-0 – 30 million	\$20,000 15,000	\$81,500 65,000
\$30 = 100 million	\$25,000	\$100,000
Over \$100 million	\$40,000	\$150,000
Over 30 million	20,000	80,000

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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

- b) The unsecured loan limits, including unsecured credit cards, and secured loan limits are separate limits for each member. Subject to the member aggregate loan limit referenced in subsection (a) ~~above~~ and provided a member is credit worthy, the credit union may lend a total amount equal to the secured and unsecured loan limit in a single loan to any one member.
- c) The above limits may be extended by the amount of the member's unencumbered share ~~accounts, account(s)~~ which must be pledged and frozen for the loan amount in excess of the limits.
- d) All loans are to be granted based upon prudent lending practice and procedures and in accordance with written lending policies and procedures prescribed by the Board of Directors.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Accumulation of Guaranty Fund or Guaranty Capital – Reporting and Accounting of Such Indebtedness
- 2) Code Citation: 50 Ill. Adm. Code 301
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
301.10	Amendments
301.20	Amendments
301.70	Amendments
- 4) Statutory Authority: Implementing Section 56 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/56 and 401].
- 5) A Complete Description of the Subjects and Issues Involved: These amendments will formalize a strictly technical correction to a statutory citation.
- 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 amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and
Professional Regulation
Attn: Barb Smith
320 West Washington
3rd Floor
Springfield, Illinois 62786
217/785-0813
Fax: 217/782-7645

or

Eve Blackwell-Lewis
Staff Attorney
Department of Financial and
Professional Regulation
Division of Insurance
320 West Washington
Springfield, Illinois 62767-0001
217-782-2867

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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: No new requirements are being proposed.
 - C) Types of professional skills necessary for compliance: Not applicable.
- 13) Regulatory Agenda on which this amendment was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Division did not anticipate the need to make a technical correction to this statutory citation.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL
REGULATION ~~INSURANCE~~

SUBCHAPTER c: DOMESTIC MUTUAL COMPANIES

PART 301

ACCUMULATION OF GUARANTY FUND OR GUARANTY CAPITAL –
REPORTING AND ACCOUNTING OF SUCH INDEBTEDNESS

Section

301.10	Authority
301.20	Application and Effective Date
301.30	Approval of Certificate Form by Director
301.40	Execution of Agreement
301.50	Consideration
301.60	Reporting and Accounting of Indebtedness
301.70	Retirement of Guaranty Fund and Guaranty Capital and Payment of Interest

AUTHORITY: Implementing Section 56 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/56 and 401].

SOURCE: Filed September 27, 1971, effective Oct. 1, 1971; codified at 7 Ill. Reg. 6488; amended at 13 Ill. Reg. 14042, effective September 11, 1989; amended at 23 Ill. Reg. 3699, effective March 10, 1999; amended at 29 Ill. Reg. _____, effective _____.

Section 301.10 Authority

This PartRule is promulgated by the Director of the Department of Financial and Professional Regulation-Division of Insurance (Director) under ~~Subsection (a) of~~ Section 401(a) of the Illinois Insurance Code which empowers the Director *to make reasonable rules and regulations as may be necessary for making effective* the insurance laws of this State. It is the purpose of this PartRule to implement Section 56 of the Illinois Insurance Code.

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

Section 301.20 Application and Effective Date

This PartRule applies to all companies organized under Article III of the Illinois Insurance Code and is applicable to any and all debts other than shown as a legal liability of the company. It shall become effective on October 1, 1971.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

Section 301.70 Retirement of Guaranty Fund and Guaranty Capital and Payment of Interest

A company may only retire guaranty funds and guaranty capital and make payment of interest on any indebtedness as provided under Section 56 of the Illinois Insurance Code [215 ILCS 5/56]. No payment shall be authorized by the Director unless:

- a) The company's surplus as regards policyholders is reasonable in relation to its outstanding liabilities and adequate for its financial needs (the determination of the reasonableness and adequacy of surplus shall include consideration of the following factors: premium volume as referenced in Sections 144 and 244.1 of the Illinois Insurance Code (Code) [215 ILCS 5/144 and 244.1]; lines of business and additional authority as referenced in Sections 4, 11, 39, and 245.23 of the Code [215 ILCS 5/4, 11, 39, 245.23]; and Section 2-1 of the Health Maintenance Organization Act [215 ILCS 125/2-1]; reserves, company size and operational history as referenced in Section 113 of the Code [215 ILCS 5/113]), and
- b) Such payment will not reduce the company's surplus as regards policyholders to less than that currently required under Section ~~4340~~ of the Illinois Insurance Code [215 ILCS ~~5/435/40~~], and
- c) Such payment is consistent with the terms of the certificate approved pursuant to Section 301.30 of this Part.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3) Section Number: 302.365 Proposed Action:
New
- 4) Statutory Authority: Section 5 of the Children and Family Services Act [20 ILCS 505/5]
- 5) A Complete Description of the Subjects and Issues involved: The Department is amending the Part to clarify that evaluation of children for whom the Department is legally responsible for possible psychiatric hospitalization and provision of community mental health services occur under the same conditions as those services are provided by the Department of Human Services. The provision assures the services meet the requirements of the Illinois Medical Assistance Program and the requirements of the Children's Mental Health Act of 2003 (Public Act 93-0495).
- 6) Will this proposed rulemaking replace any emergency rulemaking currently in effect?
Yes
- 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 amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: 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 this proposed rulemaking should be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 East Monroe Street, Station #65D
Springfield, Illinois 62701-1498

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

Telephone: 217/524-1983
TDD: 217/524-3715
FAX: 217/557-0692
E-Mail address: cfpolicy@idcfs.state.il.us

The Department will consider fully all written comments on these proposed amendments submitted during the 45-day period. Comments submitted by small businesses should be identified as such.

- 12) Initial Regulatory Flexibility analysis:
- A) Type of small businesses, small municipalities and not for profit corporations affected: This rulemaking affects child welfare agencies, child care institutions and group homes that refer children and youth for whom the Department is legally responsible for mental health services and possible psychiatric hospitalization.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None. Referral for professional is standard procedure.
- 13) Regulatory Agenda on which rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for it had not been anticipated.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERYPART 302
SERVICES DELIVERED BY THE DEPARTMENT OF CHILDREN
AND FAMILY SERVICES

SUBPART A: GENERAL PROVISIONS

Section	Purpose
302.10	Purpose
302.20	Definitions
302.30	Introduction
302.40	Department Service Goals
302.50	Functions in Support of Services

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section	Purpose
302.100	Reporting Child Abuse or Neglect to the Department (Recodified)
302.110	Content of Child Abuse or Neglect Reports (Recodified)
302.120	Transmittal of Child Abuse or Neglect Reports (Recodified)
302.130	Special Types of Reports (Recodified)
302.140	Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
302.150	Delegation of the Investigation (Recodified)
302.160	The Investigative Process (Recodified)
302.170	Taking Children Into Temporary Protective Custody (Recodified)
302.180	Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
302.190	Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	Purpose
302.300	Adoptive Placement Services (Repealed)
302.305	Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department is Not Legally Responsible
302.310	Adoption Assistance Agreements

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

302.311	Nonrecurring Adoption Expenses (Repealed)
302.315	Adoption Registry (Repealed)
302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.365	Mental Health Services
302.370	Homemaker Services
302.380	Information and Referral Services
302.390	Placement Services (Repealed)
302.400	Successor Guardianship (Repealed)
302.405	Subsidized Guardianship Program

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section	Purpose
302.500	Purpose
302.510	Implementation of the Family Preservation Act
302.520	Types of Intensive Family Preservation Services
302.530	Phase-in Phase In Plan for Statewide Family Preservation Services
302.540	Time Frames
302.APPENDIX A	Acknowledgement of Mandated Reporter Status (Recodified)
302.APPENDIX B	Calculating the Amount of Adoption Assistance (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20,

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302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1033, effective January 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; emergency expired September 10, 1998; amended at 22 Ill. Reg. 8803, effective May 15, 1998; amended at 22 Ill. Reg. 21314, effective December 1, 1998; emergency amendment at 25 Ill. Reg. 4292, effective March 15, 2001, for a maximum of 150 days; emergency expired August 11, 2001; amended at 25 Ill. Reg. 11821, effective August 31, 2001; amended at 25 Ill. Reg. 16243, effective December 15, 2001; amended at 26 Ill. Reg. 11747, effective August 1, 2002; amended at 26 Ill. Reg. 16434, effective October 22, 2002; amended at 28 Ill. Reg. 2155, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 10405, effective July 8, 2004, for a maximum of 150 days; emergency expired December 4, 2004; amended at 29 Ill. Reg. _____, effective _____.

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section 302.365 Mental Health Services

- a) Screening of children for whom the Department is legally responsible who are at risk of psychiatric hospitalization shall be provided in accordance with 59 Ill. Adm. Code 131, Children's Mental Health Screening, Assessment and Support Services Program, and shall be based on a referral to the State's Crisis and Referral Entry Services (CARES).
- b) Community mental health services for children for whom the Department is legally responsible shall be provided in accordance with 59 Ill. Adm. Code 132, Medicaid Community Mental Health Services Program. Such services shall be provided by entities certified by the Department, the Department of Human

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[Services or the Department of Corrections to provide mental health services and that are enrolled in the Illinois Medical Assistance program pursuant to 89 Ill. Adm. Code 140.](#)

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

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- 1) The Heading of the Part: Americans With Disabilities Act Grievance Procedure
- 2) Code Citation: 4 Ill. Adm. Code 1500
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u>
1500.10	New Section
1500.20	New Section
1500.30	New Section
1500.40	New Section
1500.50	New Section
1500.60	New Section
1500.70	New Section
- 4) Statutory Authority: 42 USC 12101 et seq. and 20 ILCS 5/5-625
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking is being implemented in order to comply with the provisions of the American with Disabilities Act of 1990 (Act). The Act requires the Department to implement grievance procedures providing for prompt and equitable resolution of complaints alleging any action prohibited by 28 CFR 35.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rulemaking contain incorporation by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed rule does not impose upon a local government to establish, expand or modify its activities with regard to additional expenditures from local revenues.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:

Valerie A. Puccini
Assistant General Counsel
Illinois Department of Labor
160 N. LaSalle Street, C-1300

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Chicago IL 60601

Telephone: (312) 793-7838

Facsimile: (312) 793-5257

- 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: This rulemaking was not included on either of the 2 most recent regulatory agendas because: it was not anticipated.

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

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NOTICE OF PROPOSED RULES

TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER XLVII: DEPARTMENT OF LABORPART 1500
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section	
1500.10	Purposes
1500.20	Definitions
1500.30	Procedure
1500.40	Designated Coordinator Level
1500.50	Final Level
1500.60	Accessibility
1500.70	Case-By-Case Resolution

AUTHORITY: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and Section 5-625 of the Departments of State Government Law [20 ILCS 5/5-625].

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

Section 1500.10 Purposes

- a) This grievance procedure is established pursuant to the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) (ADA) and specifically Section 35.107 of the Title II regulations, 28 CFR 35, requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. Should any individual desire to review the ADA or its regulations to understand the rights, privileges and remedies afforded by it, please contact the Designated Coordinator.
- b) In general, the ADA requires that each program, service and activity offered by the Department of Labor, when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.
- c) It is the intention of the Department to foster open communication with all individuals requesting readily accessible programs, services and activities. The Department encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

Section 1500.20 Definitions

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"Act" or "ADA" means the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.).

"Complainant" is an individual with a disability who files a Grievance Form provided by the Department of Labor under this procedure.

"Designated Coordinator" is the person appointed by the Department who is responsible for the coordination of efforts of the Department to comply with and carry out its responsibilities under Title II of the ADA, including investigation of grievances filed by complainants. The Designated Coordinator may be contacted at One West Old State Capitol Plaza, Springfield IL 62701. (See 28 CFR 35.107.)

"Director" means the Director of the Department of Labor.

"Disabilities" shall have the same meaning as set forth in the Americans With Disabilities Act.

"Grievance" is any complaint under the ADA that is reduced to writing by an individual with a disability who meets the essential eligibility requirements for participation in or receipt of the benefits of a program, activity or service offered by the Department of Labor and believes he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the Department or has been subject to discrimination by the Department.

"Grievance Form" is prescribed for the purpose of filing a grievance under this Part and includes information such as name, address, phone number, nature of the grievance, with specificity, including date of incident, time, place and witnesses if applicable.

"Qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Commission.

Section 1500.30 Procedure

- a) Grievances must be submitted in accordance with procedures established in

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Sections 1500.40 and 1500.50 of this Part. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this procedure are in calendar days, unless otherwise stated, and may be extended by mutual agreement, in writing, by the complainant and the reviewer, at the Designated Coordinator and/or the Final Levels described in Section 1500.50.

- b) A complainant's failure to submit a grievance, or to submit or appeal it to the next level of procedure within the specified time limits, shall mean that the complainant has withdrawn the grievance or has accepted the last response from the Department of Labor given in the grievance procedure.
- c) The Department shall, upon being informed of an individual's desire to file a formal grievance, instruct the individual how to receive a copy of this procedure and the Grievance Form.

Section 1500.40 Designated Coordinator Level

- a) If an individual desires to file a grievance, the individual shall promptly, but no later than 180 days after the alleged discrimination, submit the grievance to the Designated Coordinator in writing on the Grievance Form prescribed for that purpose. The Grievance Form must be completed in full in order to receive proper consideration by the Designated Coordinator.
- b) Upon request, assistance in completing the Grievance Form shall be provided by the Department of Labor.
- c) The Designated Coordinator, or his/her representative, shall investigate the grievance and, if the grievance is found to be valid, shall make reasonable efforts to resolve it. The Designated Coordinator shall provide a written response to the complainant and Director within 15 business days after receipt of the Grievance Form.

Section 1500.50 Final Level

- a) If the grievance is not resolved at the Designated Coordinator Level to the satisfaction of the complainant, the complainant may submit a copy of the Grievance Form and Designated Coordinator's response to the Director for final review. The complainant shall submit these documents to the Director, together with a short written statement explaining the reasons for dissatisfaction with the

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Designated Coordinator's written response, within 15 business days after the Designated Coordinator's response.

- b) Within 15 business days after receiving complainant's request for final review, the Director shall appoint a three-member panel to review the grievance at the Final Level. One member shall be designated chairman. The panel shall schedule a review of the grievance, which shall commence no later than 15 business days after the last member of the panel is appointed.
- c) Complainant shall be afforded an opportunity to appear before the panel. Complainant shall have a right to appoint a representative to appear on his or her behalf. The panel shall review the Designated Coordinator's written response and may conduct interviews and seek advice as it deems appropriate.
- d) Upon agreement of at least two of the panel members, the panel shall make recommendations in writing to the Director as to the proper resolution of the grievance. The recommendation shall be made 15 business days after the review commenced as described in subsection (b). All recommendations shall include reasons for such recommendations and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a recommendation to the Director in writing and shall sign the recommendation.
- e) Within 15 business days after receipt of recommendations from a panel, the Director or designee shall approve, disapprove or modify the panel recommendations; shall render a decision on those recommendations in writing; shall state the basis for his or decision; and shall cause a copy of the decision to be served on the parties. The Director's decision shall be final. If the Director disapproves or modifies the panel's recommendations, the Director may include written reasons for such disapproval or modification.
- f) The Grievance Form, the Designated Coordinator's response, the statement of the reasons for dissatisfaction, the recommendations of the panel, and the decision of the Director shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

Section 1500.60 Accessibility

The Department of Labor shall ensure that all stages of the grievance procedure are readily accessible to and usable by individuals with disabilities.

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Section 1500.70 Case-By-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the Department of Labor. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainants should rely.

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- 1) Heading of the Part: Child Support Enforcement
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
160.70	Amendment
160.75	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments provide the following changes to the Department's rules concerning child support enforcement:

Section 160.70

These changes pertain to the imposition of liens against the real estate of responsible relatives who owe past due child support. The threshold at which a lien will be imposed is being decreased from \$10,000 in past due support to \$3,500. It is expected that this change will result in more cases in which liens can be filed and a related increase in child support collections.

Additional proposed changes respond to Public Act 93-0736 by allowing an obligor to sign a debit authorization form that authorizes the State Disbursement Unit to debit the obligor's financial institution periodically in an amount equal to the amount of the child support obligation. The Department shall inform financial institutions about the child support enforcement debit authorization form. An obligor who does not have an employer may sign a child support debit authorization form and a separate debit authorization form for the financial institution holding his account to debit his account for the child support obligation.

Section 160.75

Changes are being proposed, pursuant to Public Act 93-0294, providing that an employer who knowingly fails to withhold the amount designated in an income withholding notice is subject to a \$100 per day penalty.

- 6) Will these proposed amendments replace any emergency amendments currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No

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8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
160.60	Amendment	February 18, 2005 (28 Ill. Reg. 2675)
160.75	Amendment	February 18, 2005 (28 Ill. Reg. 2675)

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217)524-0081

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

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

12) Initial Regulatory Flexibility Analysis:

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- 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: January 2005

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER f: COLLECTIONSPART 160
CHILD SUPPORT ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section

- 160.1 Incorporation by Reference
- 160.5 Definitions
- 160.10 Child Support Enforcement Program
- 160.12 Administrative Accountability Process
- 160.15 Application Fee for IV-D Non-TANF Cases
- 160.20 Assignment of Rights to Support
- 160.25 Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section

- 160.30 Cooperation With Support Enforcement Program
- 160.35 Good Cause for Failure to Cooperate with Support Enforcement
- 160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement
- 160.45 Suspension of Child Support Enforcement Upon a Claim of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS

Section

- 160.60 Establishment of Support Obligations
- 160.61 Uncontested and Contested Administrative Paternity and Support Establishment
- 160.62 Cooperation with Paternity Establishment and Continued Eligibility
Demonstration Program (Repealed)
- 160.65 Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section

- 160.70 Enforcement of Support Orders
- 160.71 Credit for Payments Made Directly to the Title IV-D Client

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- 160.75 Withholding of Income to Secure Payment of Support
160.77 Certifying Past-Due Support Information or Failure to Comply with a Subpoena
or Warrant to State Licensing Agencies
160.80 Amnesty – 20% Charge (Repealed)
160.85 Diligent Efforts to Serve Process
160.88 State Case Registry

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

- Section
160.90 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

- Section
160.95 State Disbursement Unit
160.100 Distribution of Child Support for TANF Recipients
160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who
Continue to Receive Child Support Enforcement Services
160.120 Distribution of Child Support Collected While the Client Was an AFDC or TANF
Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is
Cancelled
160.130 Distribution of Intercepted Federal Income Tax Refunds
160.132 Distribution of Child Support for Non-TANF Clients
160.134 Distribution of Child Support For Interstate Cases
160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases
160.138 Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

- Section
160.140 Statement of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

- Section
160.150 Department Review of Distribution of Child Support for TANF Recipients
160.160 Department Review of Distribution of Child Support for Former AFDC or TANF
Recipients

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3, and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

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SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998; emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective December 1, 1999; amended at 24 Ill. Reg. 2380, effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000; emergency amendment at 26 Ill. Reg. 11092, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17822, effective November 27, 2002; amended at 27 Ill. Reg. 4732, effective February 25, 2003; amended at 27 Ill. Reg. 7842, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 12139, effective July 11, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18891, effective November 26, 2003; amended at 28 Ill. Reg. 4712, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 10225, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15591, effective November 24, 2004; emergency

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amendment at 29 Ill. Reg. 2743, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. _____, effective _____.

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.70 Enforcement of Support Orders

- a) Definitions
 - 1) The definitions contained in Section 160.60(a) are incorporated herein by reference.
 - 2) "Qualified child" means a child who is a minor or who, while a minor, was determined to be disabled under Title II or XVI of the Social Security Act, and for whom a support order is in effect.
- b) Income Withholding

Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].
- c) Federal and State Income Tax Refunds and Other Payments
 - 1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State income tax refunds and other federal and State payments (see Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.)) due such relatives.
 - 2) The Department shall submit past-due support amounts to:
 - A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:
 - i) in IV-D TANF and IV-D foster care cases, past-due support

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- owed for a child or for a child and the parent with whom the child is living in an amount not less than \$150 which has been in arrears for three months or longer; and
- ii) in IV-D non-TANF cases, past-due support owed to or on behalf of a qualified child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent, and the amount of past-due support is not less than \$500.
- B) the Comptroller to intercept State income tax refunds and other State payments as follows:
- i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or \$150, whichever is less;
 - ii) in inactive IV-D TANF or AFDC and IV-D foster care cases, past-due support owed in any amount; and
 - iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of such circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.
- 3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:
- A) the IV-D case name and identification number;
 - B) the past-due support amount which will be submitted for intercept;
 - C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:
 - i) a redetermination by the Department or, after such

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redetermination,

- ii) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and
 - D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund which may be payable to that spouse, in the case of a joint federal income tax return.
- 4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.
 - 5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by requesting:
 - A) a hearing by the Department within 30 days from the date of mailing of the notice; or
 - B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.
 - 6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within ten days after the responsible relative's request. The Department shall be bound by the decision of the state with the order.
 - 7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
 - 8) The Department shall notify:

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- A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;
 - B) the Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;
 - C) the Comptroller of any deletion of an amount submitted for State income tax refund or other payment intercept or any significant decrease in the amount; and
 - D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.
- 9) The Department shall:
- A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and
 - B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, such equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his or hers; except that the Comptroller shall apportion such refunds and payments in matters where the intercepted funds have not yet been transferred to the Department.
- 10) The Department shall as promptly as possible apply collections it receives as a result of intercept under this subsection (c) only against the past-due support amount specified in the advance notice provided the responsible relative pursuant to subsection (c)(3) of this Section and shall promptly apply:
- A) federal income tax refunds first to satisfy any IV-D TANF or AFDC or IV-D foster care assigned past-due support and then to

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satisfy any IV-D non-TANF past-due support; and

- B) other federal and State payments in accord with distribution provisions in Subpart F of this Part.
- 11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:
- A) amounts intercepted under this subsection (c) will be applied in accordance with Section 160.130;
 - B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his share of a joint tax refund.
- d) Unemployment Insurance Benefits
- 1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past-due support amount equal to a one month support obligation.
 - 2) The Department shall take the following action:
 - A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.
 - B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.
 - C) establish the amount to be deducted by data entry to the DES computer file, which amount shall be the lesser of:
 - i) the amount of the income withholding order; or
 - ii) fifty percent of the Unemployment Insurance Benefit.

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- D) receive amounts deducted direct from DES.
 - E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.
 - F) post each collection to the Department's payment record.
 - G) apply each collection to the current support obligation, then to past-due obligations.
 - H) provide a redetermination within 180 days from the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly deducted amounts.
- 3) The Department of Employment Security shall take the following action:
- A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.
 - B) pay all amounts deducted direct to the Department.
- e) Contempt of Court and Other Legal Proceedings
- 1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal to not less than a one month support obligation, except as set forth in subsection (e)(2) of this Section.
 - 2) Contempt proceedings shall not be used in the following instances:
 - A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:
 - i) receiving public assistance;
 - ii) mentally or physically disabled;

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- iii) incarcerated;
 - iv) out-of-the-country;
 - v) deceased; or
 - vi) otherwise situated making such action unproductive.
- B) other legal or administrative remedies are more appropriate under the circumstances.
- 3) Contempt and other legal proceedings shall be used to:
- A) establish the amount of past-due support;
 - B) obtain a judgment for purposes of:
 - i) imposition of a lien against real estate,
 - ii) levy upon real estate and personal property, or
 - iii) registration in another state;
 - C) secure an order for lump sum or periodic payment of the past-due support or judgment;
 - D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;
 - E) obtain full or partial payment of past due support through incarceration;
 - F) ascertain the responsible relative's source and amount of income or location and value of assets;
 - G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;

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- H) secure other enforcement relief; and
 - I) obtain any combination of the above.
- 4) During the course of contempt or other legal proceedings to enforce support, if it shall appear that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].
- 5) In TANF cases, the Department shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].
- f) Liens Against Real Estate and Personal Property – Judicial Enforcement of Order for Support
- 1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].
 - 2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:
 - A) the past-due amount is at least ~~\$3,500~~\$10,000; and
 - B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.

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- 3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy, or memorandum of judgment in the county wherein the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]).
 - 4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]) when the relative has a known equity which is not less than \$3,500~~10,000~~ in excess of any statutory exemption.
- g) Liens Against Real Estate and Personal Property – Administrative Enforcement of Order for Support
- 1) Liens against real estate
 - A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:
 - i) the amount of past-due support is at least \$3,500~~10,000~~; and
 - ii) the responsible relative has an interest in real estate against which a lien may be claimed.
 - B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of Titles of the following:
 - i) the name and address of the responsible relative;
 - ii) a legal description of the real estate to be levied;
 - iii) the amount of past-due support to be satisfied by the levy;

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- iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; and
 - v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a hearing by the Department.
- C) A written request for hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).
- D) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- E) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- F) The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative has a known equity in the real estate that is not less than \$3,500~~10,000~~ in excess of any statutory exemption.
- 2) Liens against personal property
- A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:
- i) the amount of past-due support is at least \$1,000;
 - ii) the responsible relative has an interest in personal property against which a lien may be claimed; and

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- iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least \$300.
- B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative, any joint owner of whom the Department has knowledge and location information, the financial institution in which an account of the responsible relative is located, the sheriff of the county in which goods or chattels of the responsible relative are located, or any person or entity indebted to or holding personal property of the responsible relative or which may be liable for payment of money in connection with a claim or cause of action of the responsible relative. The notice shall contain the following:
- i) the name and address of the responsible relative;
 - ii) a description of the account or personal property to be levied;
 - iii) the amount of past-due support to be satisfied by the levy;
 - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative;
 - v) the right of the responsible relative to prevent levy upon the personal property, including accounts, by payment of the past-due support amount in full or by contesting the determination that past-due support is owed or the amount of past-due support by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and
 - vi) the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal property already levied, by requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or

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Levy by the Department may request a hearing by the Department within 45 days after the date of levy of the account or other personal property.

- C) In addition to the information to be included in the Notice of Lien or Levy under subsection (g)(2)(B), the Notice of Lien or Levy provided to a financial institution shall:
- i) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24];
 - ii) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit such assets within five days after being served with a Notice to Surrender Assets by the Department;
 - iii) state that the financial institution may charge the responsible relative's account a fee of up to \$50, and that the amount of any such fee be deducted from the account before remitting any assets from the account to the Department; and
 - iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department within 30 days after receipt of the Notice of Lien or Levy.
- D) The form for the response to Notice of Lien or Levy provided for under subsection (g)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:
- i) the amount of assets in the responsible relative's account;
 - ii) the amount of the fee to be deducted from the account;
 - iii) the amount of assets in the account subject to a prior lien or

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- prior right of set-off of the financial institution;
- iv) the name and address of any joint owners of the account;
and
 - v) the amount of assets surrendered and remitted to the
Department.
- E) A written request for a hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon the personal property, although the lien shall remain in effect during the pendency of any appeal taken pursuant to this subsection (g).
- F) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner's written request for a hearing.
- H) The Department, upon determining a joint owner's share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner's share. If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account.
- I) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- J) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions such data that does not relate to

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a responsible relative whose personal property may be subject to lien or levy under this subsection (g).

- h) Security, Bond or Other Guarantee of Payment
 - 1) Except as provided in subsections (h)(2) and (3) of this Section, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code [305 ILCS 5/10-17.4].
 - 2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment. Except where the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.
 - 3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.
- i) Past-Due Support Information to Consumer Reporting Agencies
 - 1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (c)(2)(A) of this Section:
 - A) the name, last known address and Social Security Number of the responsible relative; and
 - B) the terms and amount of past-due support which has accumulated under the order for support.

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- 2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies, which advance notice shall inform the relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount which will be reported;
 - C) the date past-due support will be reported; and
 - D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days from the date of mailing of the notice.
- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:
 - A) a request for:
 - i) a redetermination, or
 - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
 - B) payment in full of the amount of the past-due support stated in the:
 - i) advance notice, or
 - ii) notice of redetermination or hearing results.

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- 6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
- j) High-Volume Automated Administrative Enforcement in Interstate Cases
- 1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of such enforcement activity to the requesting state.
 - 2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and seize such assets through levy or other appropriate processes.
 - 3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:
 - A) Include such information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.
 - B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.
 - 4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of such other state.
 - 5) The Department shall maintain records of:
 - A) The number of such requests for assistance received by the Department.
 - B) The number of cases for which the Department collected support in response to such a request and the actual amount(s) of such support

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collected.

- k) Past-Due Support Certified to the Illinois Department of Revenue or to the IV-D Agency of Another State for Administrative Enforcement in the Other State
- 1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Public Aid Code [305 ILCS 5/10-17.9]) or to another state's IV-D agency for administrative enforcement where the responsible relative has property in the other state.
 - 2) The Department may submit past-due support amounts to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:
 - A) past-due support is owed for a child or for a child and the parent with whom the child is living;
 - B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3) of this Section;
 - C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and
 - D) the responsible relative is not deceased.
 - 3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, which advance notice shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount which will be submitted for collection;
 - C) the right to contest the determination that past-due support is owed

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or the amount of past-due support by making a written request for a redetermination by the Department; and

- D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.
- 4) Factors for a satisfactory repayment plan will include, but are not limited to:
- A) the amount of past-due support owed;
 - B) the amount to be paid toward the past-due amount;
 - C) the amount of current child support obligations; and
 - D) the individual's ability to pay.
- 5) The Department shall provide the Illinois Department of Revenue, or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:
- A) name;
 - B) Social Security Number;
 - C) IV-D identification number; and
 - D) the past-due support amount.
- 6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state.
- 7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.
- 8) A written request for hearing made within 30 days after the date of

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mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) of this Section.

- 9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.
- 10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- 11) The Department shall:
 - A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or
 - B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, which is still in the possession of the Department.
- l) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports
 - 1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds \$5,000:
 - A) the name, last known address and Social Security Number of the responsible relative; and
 - B) the terms and amount of past-due support which has accumulated under the order for support.
 - 2) The Department shall provide the responsible relative with a notice at least

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15 days prior to certifying past-due support to the Secretary of Health and Human Services, which advance notice shall inform the relative of the following:

- A) the IV-D case name and identification number;
 - B) the past-due support amount which will be certified;
 - C) the date past-due support will be certified; and
 - D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.
- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:
- A) a request for:
 - i) a redetermination, or
 - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
 - B) payment in full of the amount of the past-due support stated in the:
 - i) advance notice, or
 - ii) notice of redetermination or hearing results.
- 6) The Department shall advise the Secretary of Health and Human Services

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of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

- m) List of Responsible Relatives
- 1) Any list of responsible relatives owing past-due support to be disclosed pursuant to Section 12-12.1 of the Illinois Public Aid Code [305 ILCS 5/12-12.1] shall be developed as required by this subsection (m).
 - 2) The list shall include no more than 200 responsible relatives at any given time, shall include only responsible relatives owing \$5,000 or more in past-due support accumulated under Illinois court or administrative support orders, and shall include, but is not limited to, the following information about each responsible relative:
 - A) the name of the responsible relative;
 - B) the responsible relative's last known address; and
 - C) the amount of past-due support as of a given date, expressed within a range (for example, \$50,000-\$100,000), that has accumulated under the support order.
 - 3) The Department shall make the list available for public inspection at its offices or by other means of publication, including the Internet.
 - 4) The Department shall send an advance notice by certified mail to the responsible relative at his or her last known address at least 90 days prior to publishing past-due support information. The advance notice shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount as of a given date;
 - C) the earliest date by which past due support information will be published;
 - D) the right to contest the determination that past-due support is owed or the amount of past-due support by submitting a written request

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to the Department for a hearing no later than 10 days before the date of publication stated in the advance notice; and

- E) that within 60 days from the date of delivery or refusal of the advance notice, the responsible relative may avoid publication of the past-due support information by paying the past-due support in full, or by establishing and complying with a satisfactory payment plan as determined by the Department.
- 5) Factors for a satisfactory payment plan will include, but are not limited to:
- A) the amount of past-due support owed;
 - B) the amount to be paid toward the past-due support;
 - C) the amount of the current support obligation(s); and
 - D) the responsible relative's ability to pay.
- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.101 and 104.103 upon receipt of a request for a hearing.
- 7) The Department shall be stayed from publishing past-due support information regarding the responsible relative by any of the following:
- A) a timely written request for hearing from the responsible relative regarding the existence or amount of past-due support stated in the advance notice; or
 - B) as of the date of publishing, a pending judicial review of a final administrative decision of the Department issued pursuant to this subsection.

n) Debit Authorization

- 1) The Department shall adopt a child support enforcement debit authorization form that, upon being signed by an obligor, authorizes the State Disbursement Unit to debit the obligor's financial institution account periodically in an amount equal to the amount of the child support obligation.

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- 2) The Department shall, upon adoption, inform each financial institution conducting business in this State that the form has been adopted and is ready for use.
- 3) The form shall include instructions concerning the debiting of accounts held on behalf of obligors and the transfer of the debited amount to the State Disbursement Unit.
- 4) An obligor who does not have a payor, as defined in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15], may sign a child support debit authorization form. The obligor must sign a separate debit authorization form for each financial institution holding an account on his or her behalf in which a child support payment is to be debited and transferred to the State Disbursement Unit.
- 5) The signing and issuance of a child support debit authorization form does not relieve the obligor from responsibility for compliance with any requirement under the order for support.
- 6) It is the responsibility of the obligor to notify the State Disbursement Unit in accordance with the instructions provided on the debit authorization form.

on) Other Remedies

The Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.

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

Section 160.75 Withholding of Income to Secure Payment of Support

- a) **Definitions**
The definitions contained in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15], are incorporated herein by reference.
- b) **Entry of Order for Support Containing Income Withholding Provisions; Income Withholding Notice**
 - 1) The Department, through its legal representative, shall request that when entering an order for support the court include in the order the following income withholding provisions, as required by law:

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- A) that an income withholding notice be prepared by the Department and served immediately upon any payor of the obligor, unless a written agreement is reached between and signed by both parties providing for an alternative arrangement, approved and entered into the record by the court, which ensures payment of support. In that case, the Department, through its legal representative, shall request that the order for support provide that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support; and
 - B) a dollar amount to be paid until payment in full of any delinquency that accrues after entry of the order for support; the dollar amount not to be less than 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the order for support; and
 - C) the obligor's Social Security Number disclosed to the court as required by law; and
 - D) if the obligor is not a United States citizen, the obligor's alien registration number, passport number, and home country's social security or national health number disclosed to the court as required by law.
- 2) The income withholding notice prepared by the Department shall:
- A) be in the standard format prescribed by the federal Department of Health and Human Services; and
 - B) state the date of entry of the order for support upon which the income withholding notice is based; and
 - C) direct any payor to withhold the dollar amount required for current support under the order for support; and
 - D) direct any payor to withhold the dollar amount required to be paid periodically under the order for support for payment of the amount of any arrearage stated in the order for support; and
 - E) state the amount of the payor income withholding fee as provided

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by law; and

- F) state that the amount actually withheld from the obligor's income for support and other purposes, including the payor's withholding fee, may not be in excess of the maximum amount permitted under the federal Consumer Credit Protection Act; and
 - G) state the duties of the payor and the fines and penalties provided by law for failure to withhold and pay over income and for discharging, disciplining, refusing to hire, or otherwise penalizing the obligor because of the duty to withhold and pay over income; and
 - H) state the rights, remedies, and duties of the obligor, as provided by law; and
 - I) include the Social Security Numbers of the obligor, the obligee, and the child or children included in the order for support; and
 - J) include the date withholding for current support terminates, which shall be the date of termination of the current support obligation set forth in the order for support; and
 - K) contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office, except that the failure to contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office shall not affect the validity of the income withholding notice; and
 - L) direct any payor to pay over amounts withheld for payment of support to the State Disbursement Unit.
- 3) Notwithstanding the exception to immediate income withholding referred to in subsection (b)(1)(A) of this Section, if the court finds at the time of any hearing that an arrearage has accrued, the Department, through its legal representative, shall request that the court order immediate service of an income withholding notice upon the payor, as required by law.
- c) Service of Income Withholding Notice

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- 1) If the order for support requires immediate service of an income withholding notice, the Department shall serve the notice on the payor within two business days after the date the order is received if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If the Department receives the payor's address from the Illinois Directory of New Hires, as established under Section 1801.1 of the Unemployment Insurance Act [820 ILCS 405/1801.1], the Department shall serve an income withholding notice and, where applicable, a National Medical Support Notice, on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.
 - 2) The Department may serve the income withholding notice on the payor or its superintendent, manager, or other agent by ordinary mail or certified mail, return receipt requested, by facsimile transmission or other electronic means, by personal delivery, or by any method provided by law for service of a summons. At the time of service on the payor and as notice that withholding has commenced, the Department shall serve a copy of the income withholding notice on the obligor by ordinary mail addressed to his or her last known address. A copy of the income withholding notice together with proofs of service on the payor and the obligor shall be filed by the Department with the Clerk of the Circuit Court.
 - 3) Notwithstanding the fact that the order for support, under the exception to immediate withholding referred to in subsection (b)(1)(A) of this Section, provides that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support, the Department shall serve an income withholding notice on the payor prior to accrual of a delinquency if the obligor executes a written waiver of that condition and requests immediate service on the payor.
 - 4) At any time after the initial service of an income withholding notice, the Department may serve any other payor of the obligor with the same income withholding notice without further notice to the obligor. A copy of the income withholding notice together with a proof of service on the other payor shall be filed with the Clerk of the Circuit Court.
- d) Income Withholding After Accrual of Delinquency

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- 1) The Department shall prepare and serve an income withholding notice within two business days after the date the obligor accrues a delinquency if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If the payor's address is unknown on the date the obligor accrues a delinquency, and the Department receives the payor's address from the Illinois Directory of New Hires, the Department shall serve an income withholding notice on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.
- 2) An income withholding notice prepared by the Department under subsection (d)(1) of this Section shall:
 - A) contain the information required under subsection (b)(2) of this Section; and
 - B) contain the total amount of the delinquency as of the date of the notice; and
 - C) direct the payor to withhold the dollar amount required to be withheld periodically under the order for support for payment of the delinquency; and
 - D) be served on the payor and the obligor in the manner provided in subsection (c)(2) of this Section.
- 3) The obligor may contest withholding commenced under this subsection (d) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to:
 - A) a dispute concerning the existence or amount of the delinquency;
or
 - B) the identity of the obligor.
- 4) The accrual of a delinquency as a condition for service of an income withholding notice, under the exception to immediate withholding referred to in subsection (b)(1)(A) of this Section, shall apply only to the initial

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service of an income withholding notice on a payor of the obligor.

- e) Initiated Withholding
 - 1) Notwithstanding any other provision of this Section, if the court has not required that income withholding take effect immediately, the Department, pursuant to this subsection (e), may initiate withholding regardless of whether a delinquency has accrued, by preparing and serving an income withholding notice on the payor that contains the information required under subsection (b)(2) of this Section and states that the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A) of this Section no longer ensures payment of support, and the reason or reasons why it does not.
 - 2) The income withholding notice and the obligor's copy of the income withholding notice shall be served as provided in subsection (c)(2) of this Section.
 - 3) The obligor may contest withholding commenced under this subsection (e) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to a dispute concerning the conditions in subsections (e)(3)(A) and (B) of this Section (it shall not be grounds for filing a petition that the obligor has made all payments due by the date of the petition):
 - A) whether the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A) of this Section continues to ensure payment of support; or
 - B) the identity of the obligor.
- f) Petitions to Modify, Suspend or Terminate an Order for Withholding
 - 1) At any time the Department, through its legal representative, may petition the court to:
 - A) modify, suspend or terminate the income withholding notice because of a modification, suspension, or termination of the underlying order for support;

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- B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or
 - C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery.
- 2) The Department shall serve on the payor, in the manner provided for service of income withholding notices in subsection (c)(2) of this Section, a copy of any order entered pursuant to this subsection (f) that affects the duties of the payor.
 - 3) The Department may serve a notice on the payor to:
 - A) cease withholding of income for payment of current support for a child when the support obligation for that child has automatically ceased under the order for support through emancipation or otherwise; or
 - B) cease withholding of income for payment of delinquency or arrearage when the delinquency or arrearage has been paid in full.
 - 4) The notice provided for under subsection (f)(3) of this Section shall be served on the payor in the manner provided for service of income withholding notices in subsection (c)(2) of this Section, and a copy shall be provided to the obligor and the obligee.
- g) **Additional Duties**
The Department shall provide notice to the payor and Clerk of the Circuit Court of any other support payment made, including but not limited to:
- 1) an offset under federal or State law; or
 - 2) partial payment of the delinquency or arrearage or both.
- h) **Alternative Procedures for Service of an Income Withholding Notice**
- 1) The procedures of this subsection (h) shall be used by the Department in any matter to serve an income withholding notice on a payor if:

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- A) For any reason the most recent order for support entered does not contain the income withholding provisions stated in subsection (b) of this Section, irrespective of whether a separate order for withholding was entered prior to July 1, 1997; and
 - B) The obligor has accrued a delinquency after entry of the most recent order for support.
- 2) The Department shall prepare and serve the income withholding notice in accordance with the provisions of subsection (d) of this Section, except that the notice shall contain a periodic amount for payment of the delinquency equal to 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the most recent order for support.
 - 3) If the obligor requests in writing that income withholding become effective prior to the obligor accruing a delinquency under the most recent order for support, the Department shall prepare and serve an income withholding notice on the payor as provided in subsections (b) and (c) of this Section. In addition to filing proofs of service of the income withholding notice on the payor and the obligor, the Department shall file a copy of the obligor's written request for income withholding with the Clerk of the Circuit Court.
- i) Notice to Payor
Whenever the Department serves an income withholding notice on a payor, notice of the following shall be included in or with the income withholding notice:
 - 1) that the payor must begin deducting no later than the next payment of income which is payable or creditable to the obligor that occurs 14 days following the date the income withholding notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the payor;
 - 2) that the payor must pay the amount withheld to the State Disbursement Unit within seven business days after the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;
 - 3) that if the payor knowingly fails [to withhold the amount designated in the income withholding notice or](#) to pay any amounts withheld to the State

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Disbursement Unit within seven business days after the date the amount would have been paid or credited to the obligor, the payor is subject to a penalty of \$100 for each day that the ~~withheld~~ amount designated in the income withholding notice (whether or not withheld by the payor) is not paid to the State Disbursement Unit after the period of seven business days has expired;

- 4) that the payor may combine all amounts withheld for the benefit of an obligee or public office into a single payment and transmit the payment with a listing of obligors from whom withholding has been effected;
- 5) that for each deduction the payor must provide the State Disbursement Unit at the time of transmittal, with the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;
- 6) that for withholding of income, the payor is entitled to a fee not to exceed \$5 per month to be taken from the income to be paid to the obligor;
- 7) that the amount actually withheld for support, the child's health insurance premium and payor withholding fee shall not exceed the maximum amount permitted under the federal Consumer Credit Protection Act. Income available for withholding shall be applied first to the current support obligation, then to any premium required for employer, labor union, or trade union-related health insurance coverage ordered under the order for support, and then to payment required on past due support obligations. If there is insufficient available income remaining to pay the full amount of the required health insurance premium after withholding of income for the current support obligation, then the remaining available income shall be applied to payments required on past due support obligations;
- 8) require that whenever the obligor is no longer receiving income from the payor, the payor must return a copy of the income withholding notice to the Department and provide the obligor's last known address and the name and address of the obligor's new payor, if known;
- 9) that withholding of income under the income withholding notice must be made without regard to any prior or subsequent garnishments, attachments, wage assignments, or any other claims of creditors;
- 10) that the income withholding notice is binding upon the payor until service

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of an order of the court or a notice from the Department or Clerk of the Circuit Court;

- 11) that the payor is subject to a fine of up to \$200 for discharging, disciplining or otherwise penalizing an obligor because of the duty to withhold income;
- 12) that if the payor willfully fails to withhold or pay over income pursuant to a properly served income withholding notice that the payor is liable for the total amount that the payor willfully failed to withhold or pay over;
- 13) that if the payor has been served with more than one income withholding notice pertaining to the same obligor, the payor shall allocate income available on a proportionate share basis, giving priority to current support payments; and
- 14) that a payor who complies with an income withholding notice that is regular on its face is not subject to civil liability with respect to any individual, any agency, or any creditor of the obligor for conduct in compliance with the notice.

j) Notice to Obligor

When the Department serves a copy of the income withholding notice on the obligor as required under this Section, notice of the following shall be included in or with the obligor's copy of the income withholding notice:

- 1) that income withholding has commenced;
- 2) the information provided to the payor under subsection (i) of this Section;
- 3) the procedures and the permissible grounds for contesting withholding commenced under subsection (d), (e) or (h) of this Section, as applicable;
- 4) that at any time the obligor may petition the court to:
 - A) modify, suspend or terminate the income withholding notice because of a modification, suspension or termination of the underlying order for support; or
 - B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income

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withholding or otherwise; or

- C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery; or
 - D) correct a term contained in an income withholding notice to conform to that stated in the underlying order for support for:
 - i) the amount of current support;
 - ii) the amount of the arrearage;
 - iii) the periodic amount for payment of the arrearage; or
 - iv) the periodic amount for payment of the delinquency;
 - 5) that the obligor is required by law to notify the obligee, the Department, and the Clerk of the Circuit Court of any new address or payor within seven days after the change; and
 - 6) that where a payor willfully discharges, disciplines, refuses to hire or otherwise penalizes an obligor because of the duty to withhold income, the obligor may file a complaint with the court against the payor, and that the court may order employment or reinstatement of or restitution to the obligor, or may impose a fine upon the payor not to exceed \$200.
- k) Penalties
- In cases where a payor willfully fails to withhold or pay over income, pursuant to a properly served income withholding notice, or otherwise fails to comply with any income withholding duties imposed by law, the Department, through its legal representatives, may request that the court:
- 1) enter judgment and direct the enforcement thereof for the total amount that the payor willfully failed to withhold or pay over;
 - 2) impose a penalty or fine upon the payor or invoke any other remedy allowed by law.
- l) Interstate Income Withholding
- Within the timeframes specified in subsections (c)(1) and (d)(1) of this Section,

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and pursuant to the provisions of the Uniform Interstate Family Support Act [750 ILCS 22], the Department shall engage income withholding in cases in which the obligor is receiving income from a payor located in another state.

- m) Use of National Medical Support Notice to Enforce Health Insurance Coverage
 - 1) When an order for support is being enforced by the Department under this Section, any requirement for health insurance coverage to be provided through an employer, including withholding of premiums from the income of the obligor, shall be enforced through use of a National Medical Support Notice.
 - 2) A National Medical Support Notice shall be served on the employer in the manner and under the circumstances provided for serving an income withholding notice under this Section, except that an order for support that conditions service of an income withholding notice on the obligor becoming delinquent in paying the order for support shall not prevent immediate service of a National Medical Support Notice by the Department. The Department may serve a National Medical Support Notice on an employer in conjunction with service of an income withholding notice. Service of an income withholding notice is not a condition for service of a National Medical Support Notice, however.
 - 3) At the time of service of a National Medical Support Notice on the employer, the Department shall serve a copy of the Notice on the obligor by ordinary mail addressed to the obligor's last known address. The Department shall file a copy of the National Medical Support Notice, together with proofs of service on the employer and the obligor, with the clerk of the circuit court.
 - 4) Within 20 business days after the date of a National Medical Support Notice, an employer served with the Notice shall transfer the severable notice to plan administrator to the appropriate group health plan providing any health insurance coverage for which the child is eligible. As required in the part of the National Medical Support Notice directed to the employer, the employer shall withhold any employee premium necessary for coverage of the child and shall send any amount withheld directly to the plan. The employer shall commence the withholding no later than the next payment of income that occurs 14 days after the date the National Medical Support Notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the employer.

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Notwithstanding the requirement to withhold premiums from the obligor's income, if the plan administrator informs the employer that the child is enrolled in an option under the plan for which the employer has determined that the obligor's premium exceeds the amount that may be withheld from the obligor's income due to the withholding limitation or prioritization contained in Section 35 of the Income Withholding for Support Act, the employer shall complete the appropriate item in the part of the National Medical Support Notice directed to the employer according to the instructions in the Notice and shall return that part to the Department.

- 5) If one of the following circumstances exists, an employer served with a National Medical Support Notice shall complete the part of the Notice directed to the employer in accordance with the instructions in the Notice and shall return that part to the Department within 20 business days after the date of the Notice:
 - A) The employer does not maintain or contribute to plans providing dependent or family health insurance coverage.
 - B) The obligor is among a class of employees that is not eligible for family health insurance coverage under any group health plan maintained by the employer or to which the employer contributes.
 - C) Health insurance coverage is not available because the obligor is no longer employed by the employer.
- 6) The administrator of a health insurance plan to whom an employer has transferred the severable notice to plan administrator part of a National Medical Support Notice shall complete that part with the health insurance coverage information required under the instructions in the Notice and shall return that part to the Department within 40 business days after the date of the Notice.
- 7) The obligor may contest withholding under this Section based only on a mistake of fact and may contest withholding by filing a petition with the clerk of the circuit court within 20 days after service of a copy of the National Medical Support Notice on the obligor. The obligor must serve a copy of the petition on the Department at the address stated in the National Medical Support Notice. The National Medical Support Notice, including the requirement to withhold any required premium, shall continue to be

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binding on the employer until the employer is served with a court order resolving the contest or until notified by the Department.

- 8) Whenever the obligor is no longer receiving income from the employer, the employer shall return a copy of the National Medical Support Notice to the Department and shall provide information for the purpose of enforcing health insurance coverage under this Section.
 - 9) The Department shall promptly notify the employer when there is no longer a current order for health insurance coverage in effect that the Department is responsible for enforcing.
 - 10) Unless stated otherwise in this Section, all of the provisions of this Section relating to income withholding for support shall pertain to income withholding for health insurance coverage under a National Medical Support Notice, including but not limited to, the duties of the employer and obligor, and the penalties contained in Section 35 and Section 50 of the Income Withholding for Support Act. In addition, an employer who willfully fails to transfer the severable notice to plan administrator part of a National Medical Support Notice to the appropriate group health plan providing health insurance coverage for which a child is eligible, within 20 business days after the date of the Notice, is liable for the full amount of medical expenses incurred by or on behalf of the child which would have been paid or reimbursed by the health insurance coverage had the severable notice to plan administrator part of the Notice been timely transferred to the group health insurance plan. This penalty may be collected in a civil action that may be brought against the employer in favor of the obligee or the Department.
 - 11) When the administrator of a health insurance plan returns the severable notice to plan administrator portion of a National Medical Support Notice to the Department indicating that there is more than one option available for coverage of the child under the plan, the Department, within 20 days after the date the portion is returned, shall consult with the obligee, select from the available options, and inform the plan administrator of the option selected.
- n) Refund of Improperly Withheld Amounts
The Department shall promptly refund to the obligor amounts found to have been improperly withheld from the obligor's income.

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

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Licensing Standards for Day Care Centers
- 2) Code Citation: 89 III. Adm. Code 407
- 3) Section Number: 407.370 Adopted Action: Amended
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10], the Child Product Safety Act [430 ILCS 125], and the Abused and Neglected Child Reporting Act [325 ILCS 5/3]
- 5) Effective Date of Amendment: March 15, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 28 Ill Reg. 6271; April 23, 2004
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: In addition to editing and formatting corrections, the following amendments were made: The only changes made are those editing and formatting changes recommended by the Joint Committee on Administrative Rules. Those changes, and only those changes, are made by the Department in the adopted rule.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The Department is amending Part 407 as follows:

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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In Section 407.370, subsection (n) was added to ensure that every licensed day care center has a system for parental notification before any non-emergency application of pesticide.

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

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498

(217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 407

LICENSING STANDARDS FOR DAY CARE CENTERS

Section

407.1	Purpose (Repealed)
407.2	Definitions (Repealed)
407.3	Effective Date of Standards (Repealed)
407.4	Application for License (Repealed)
407.5	Application for Renewal of License (Repealed)
407.6	Provisions Pertaining to the License (Repealed)
407.7	Provisions Pertaining to Permits (Repealed)
407.8	Organization and Administration (Repealed)
407.9	Finances (Repealed)
407.10	General Requirements for Personnel (Repealed)
407.11	Child Care Director (Repealed)
407.12	Child Care Workers and Group Workers (Repealed)
407.13	Child Care Assistants (Repealed)
407.14	Use of Students (Repealed)
407.15	Service Staff (Repealed)
407.16	Substitutes and Volunteers (Repealed)
407.17	Background Inquiry (Repealed)
407.18	Admission and Discharge Procedures (Repealed)
407.19	Discipline (Repealed)
407.20	Personal Care and Hygiene (Repealed)
407.21	Program (Repealed)
407.22	Equipment and Materials (Repealed)
407.23	Grouping and Staffing (Repealed)
407.24	Nutrition (Repealed)
407.25	Night Care (Repealed)
407.26	Children with Special Needs (Repealed)
407.27	Infants and Toddlers (Repealed)
407.28	School-Age Children (Repealed)
407.29	Health Requirements for Children (Repealed)
407.30	Transportation (Repealed)
407.31	Plant and Equipment (Repealed)
407.32	Records and Reports (Repealed)

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- 407.33 Confidentiality of Records and Information (Repealed)
- 407.34 Records Retention (Repealed)
- 407.35 Severability of This Part (Renumbered)

SUBPART A: INTRODUCTION, DEFINITIONS, AND APPLICABILITY

Section

- 407.40 Purpose and Applicability
- 407.45 Definitions

SUBPART B: PERMITS AND LICENSES

- 407.50 Application for License
- 407.55 Application for Renewal of License
- 407.60 Provisions Pertaining to the License
- 407.65 Provisions Pertaining to Permits

SUBPART C: ADMINISTRATION

- 407.70 Organization and Administration
- 407.80 Confidentiality of Records and Information

SUBPART D: STAFFING

- 407.90 Staffing Structure
- 407.100 General Requirements for Personnel
- 407.110 Background Checks for Personnel
- 407.120 Personnel Records
- 407.130 Qualifications for Child Care Director
- 407.140 Qualifications for Early Childhood Teachers and School-age Workers
- 407.150 Qualifications for Early Childhood Assistants and School-age Worker Assistants
- 407.160 Students and Youth Aides
- 407.170 Substitutes
- 407.180 Volunteers
- 407.190 Grouping and Staffing

SUBPART E: PROGRAM REQUIREMENTS

- 407.200 Program Requirements for All Ages
- 407.210 Special Requirements for Infants and Toddlers

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- 407.220 Special Requirements for School-Age Children
- 407.230 Intergenerational Programs
- 407.240 Evening, Night, Weekend and Holiday Care

SUBPART F: STRUCTURE AND SAFETY

- 407.250 Enrollment and Discharge Procedures
- 407.260 Daily Arrival and Departure of Children
- 407.270 Guidance and Discipline
- 407.280 Transportation
- 407.290 Swimming and Wading
- 407.300 Animals

SUBPART G: HEALTH AND HYGIENE

- 407.310 Health Requirements for Children
- 407.320 Hand Washing
- 407.330 Nutrition and Meal Service
- 407.340 Diapering and Toileting Procedures
- 407.350 Napping and Sleeping
- 407.360 Medications

SUBPART H: FACILITY AND EQUIPMENT

- 407.370 Physical Plant/Indoor Space
- 307.380 Equipment and Materials
- 407.390 Outdoor Play Area

SUBPART I: SEVERABILITY OF THIS PART

- 407.400 Severability of This Part

- 407.APPENDIX A Equipment for Infants and Toddlers
- 407.APPENDIX B Equipment for Preschool Children
- 407.APPENDIX C Equipment for School-Age Children
- 407.APPENDIX D Infant Daily Food Requirements
- 407.APPENDIX E Meal Patterns and Serving Sizes for Child Care Programs
- 407.APPENDIX F Resource Reference List
- 407.APPENDIX G Early Childhood Teacher Credentialing Programs
- 407.APPENDIX H Playground Surfacing and Critical Height

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10] and the Children's Product Safety Act [430 ILCS 125].

SOURCE: Adopted and codified at 7 Ill. Reg. 9215, effective August 15, 1983; amended at 8 Ill. Reg. 8713, effective June 15, 1984; amended at 8 Ill. Reg. 24937, effective January 1, 1985; amended at 16 Ill. Reg. 7597, effective April 30, 1992; emergency amendment at 20 Ill. Reg. 11366, effective August 1, 1996, for a maximum of 150 days; emergency expired December 28, 1996; amended at 21 Ill. Reg. 923, effective January 15, 1997; amended at 22 Ill. Reg. 1728, effective January 1, 1998; amended at 24 Ill. Reg. 17036, effective November 1, 2000; amended at 28 Ill. Reg. 3011, effective February 15, 2004; amended at 29 Ill. Reg. 4502, effective March 15, 2005.

SUBPART H: FACILITY AND EQUIPMENT

Section 407.370 Physical Plant/Indoor Space

Partially exempt programs are exempt from these standards.

- a) Buildings used for day care center programs shall be in good shape and operable and must comply with all applicable fire safety standards.
 - 1) The building housing a center shall be approved prior to occupancy and license renewal by the Illinois Department of Public Health and the Office of the State Fire Marshal or local agencies authorized by those State agencies to conduct inspections on their behalf. Otherwise, inspection and approval shall be in accordance with the regulations of the proper health and fire authorities.
 - 2) Day care centers that provide day care only for school-age children in a building currently being used as a pre-primary, primary, or secondary school do not need to obtain the fire clearance in subsection (a)(1) ~~above~~ if the day care center provides written documentation that a fire safety clearance has been received from the responsible party of the Illinois State Board of Education and/or the Regional School Superintendent and that all exit doors for the school remain unlocked. An acceptable fire safety clearance from the Illinois State Board of Education must be in writing and must indicate that the school complies with the applicable fire safety regulations adopted by the Illinois State Board of Education (23 Ill. Adm. Code 180).

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- b) The building or portion of the building to which children from the center have access shall be used only for a program of child care during the hours that the center is in operation. The space used for child care may be shared by other groups or persons outside of the hours of operation.
- c) Infants and toddlers shall be housed and cared for at ground level unless otherwise approved through the exception process below. Travel distance between any point in a room used for infants and toddlers and an exit discharging directly outside shall not exceed 150 feet. Only a fire inspector from the Office of the State Fire Marshal or the Chicago Fire Department's Fire Prevention Bureau may grant an exception to the requirement that infants and toddlers be housed and cared for at ground level.
- d) There shall be sufficient indoor space to conduct the program.
 - 1) There shall be a minimum of 35 square feet of activity area per child in centers for children two years of age and older. This space is exclusive of exit passages and fire escapes, which must be clear. This space is also exclusive of administrative space, storage areas, bathrooms, kitchen, space required for equipment that is not used for direct activities with children, and gymnasiums or other areas used exclusively for large muscle activity or active sports.
 - 2) The amount of space required for infants and toddlers shall be determined according to the use of the space for sleep and play purposes.
 - A) Regardless of whether infants play and sleep in the same room or in two separate rooms, there shall be a minimum of 25 square feet of play space per child plus a minimum of 30 square feet of sleeping space per child, with at least two feet between each crib and the next crib.
 - B) When toddlers play and sleep in the same room using cots which can be stacked, there shall be 35 square feet of space per child. When children are in their cots, there must be a minimum of two feet between the cots.
 - C) When toddlers play and sleep in the same room using cribs, there shall be a minimum of 55 square feet per child. When children are

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in their cribs, there must be a minimum of two feet between the cribs.

- D) When toddlers play and sleep in separate rooms, there shall be minimum of 35 square feet of play space per child and a minimum of 30 square feet of sleeping space per child, with at least two feet between each cot or crib.
- 3) Storage space shall be provided for cots, bedding, and other equipment.
- 4) One room, no matter how large, shall accommodate only one group, except that room dividers or program equipment at least 3'6" in height may be used to define and separate the space for each group of children up to age five. Gymnasiums and similar sized areas may accommodate two groups, without dividers, when used for large muscle activity and active sports.
- 5) All rooms or spaces accommodating more than one group shall be provided with an acoustical ceiling or its equivalent in carpeting or wall covering. If carpeting is used to control noise, it shall not be required in water play, painting, and similar areas.
- e) The building and indoor space shall be maintained in good repair and shall provide a safe, comfortable environment for the children.
- 1) Adjustable window shades, drapes, or blinds shall be provided in all rooms where children rest or nap or in rooms that receive direct sunlight while children are present.
- 2) The floors and floor coverings shall be washable and free from drafts, splinters, and dampness.
- 3) Toxic or lead paints or finishes shall not be used on walls, window sills, beds, toys or any other equipment, materials or furnishings which may be used by children or within their reach. Peeling or damaged paint or plaster shall be repaired promptly to protect children from possible hazards.
- 4) Any thermal hazards (radiators, hot water pipes, steam pipes, heaters) in the space occupied by children shall be out of the reach of children or be separated from the space by partitions, screens, or other means.

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- 5) Sharp scissors, plastic bags, knives, cigarettes, matches, lighters, flammable liquids, drugs, sharp instruments, power tools, cleaning supplies and any other such items which might be harmful to children shall be kept in areas inaccessible to children. Hazardous items for infants and toddlers also include coins, balloons, safety pins, marbles, Styrofoam[®] and similar products, and sponge, rubber or soft plastic toys.
- 6) All cleaning compounds, pesticides, fertilizers and other potentially hazardous or explosive compounds or agents shall be stored in original containers with legible labels in a locked area which is inaccessible to children.
- 7) A draft-free temperature of 65° F to 75° F shall be maintained during the winter months or heating season. For infants and toddlers, a temperature of 68° F to 82° F shall be maintained during the summer or air-conditioning months. When the temperature in the center exceeds 78° F, measures shall be taken to cool the children. Temperatures shall be measured at least three feet above the floor.
- 8) If electric fans are used to control temperature, measures shall be taken to assure the safety of the children in the group:
 - A) Stationary fans shall be mounted on the walls (at least five feet above the floor) or on the ceiling.
 - B) When portable fans on stands are used, they shall be anchored to prevent tipping.
 - C) All portable fans shall have blade guard openings of less than ½ inch and shall be inaccessible to children.
- 9) Exits shall be kept unlocked and clear of equipment and debris at all times.
- 10) Electrical outlets within the reach of children shall be covered.
- 11) The program shall be modified, as needed, when there are adverse conditions caused by weather, heating or cooling difficulties or other problems. When such conditions exceed a 24-hour period, the Department shall be notified regarding program modifications.

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- f) Drills for possible emergency situations including fire and tornado shall be conducted.
 - 1) A floor plan shall be posted in every room indicating the following:
 - A) The building areas that will provide the most structural stability in case of tornado; and
 - B) The primary and secondary exit routes in case of fire.
 - 2) Drills shall be conducted once a month for fire and twice a year (seasonally) for tornado.
 - 3) Records shall be maintained of the dates and times that fire and tornado drills are conducted.
- g) All areas of the center shall receive sufficient light.
 - 1) Areas for reading, painting, puzzles or other close work shall be illuminated to at least 50 to 100 foot candles on the work surface.
 - 2) Areas for general play, such as housekeeping and block building, shall be illuminated to at least 30 to 50 foot candles on the surface.
 - 3) Stairways, walkways, landings, driveways and entrances shall be illuminated to at least 20 foot candles on the surface.
- h) A safe and sanitary water supply shall be maintained. If a private water supply is used instead of a public water supply, the center shall supply written records of current test results indicating that the water supply is safe for drinking in accordance with the standards specified for non-community water supplies in the Drinking Water Systems Code (77 Ill. Adm. Code 900). New test results must be provided prior to relicensing. If nitrate content exceeds ten parts per million, bottled water must be used for infants.
- i) There shall be no smoking or use of tobacco products in any form in the child care center or in the presence of children while on the playground or engaged in other activity away from the center.

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- j) Major cleaning shall not be done while children are present.
- k) Basement or cellar windows used or intended to be used for ventilation, and all other openings to a basement or cellar, shall not permit the entry of rodents.
- l) Openings to the outside shall be protected against the entrance of flies or other flying insects by doors, windows, screens, or other approved means.
- m) Any extensive extermination of pest or rodents shall be conducted by a licensed pest control operator under the direct observation of a staff member to insure that residue is not left in areas accessible to children.
- n) Pesticide Application
 - 1) Chemicals for insect and rodent control shall be applied in minimum amounts and shall not be used when children are present in the facility. Toys and other items mouthed or handled by the children must be removed from the area before pesticides are applied. Children must not return to the treated area within 2 hours after a pesticide application or as specified on the pesticide label, whichever time is greater. Over-the-counter products may be used only according to package instructions. Commercial chemicals, if used, shall be applied by a licensed pest control operator and shall meet all standards of the Department of Public Health (Structural Pest Control Code, 77 Ill. Adm. Code 830). A record of any pesticides used shall be maintained at the facility.
 - 2) The center shall notify all parents or guardians before a pesticide application, or maintain a registry of parents or guardians who wish to receive written notification of when the facility will receive a pesticide application and send a written notification to them. Notification of the intended date of the application of the pesticide, which may be in the form of newsletters, bulletins, calendars, or other written communication methods presently used by the center, must be given at least 2, but not more than 30, days before the pesticide application. When economically feasible, the center must adopt an Integrated Pest Management (IPM) program as defined in Section 3.25 of the Structural Pest Control Act [225 ILCS 235/3.25], involving the cooperation between day care staff and pest control personnel or other specialists to use a variety of non-chemical methods as well as pesticides, when needed, to reduce pest infestations to acceptable levels and to minimize children's exposure to pesticides.

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- 3) Prior notice of pesticide application is not required if the application is due to an immediate threat to health or property, in which case the pesticide must be immediately applied. Children shall not be present during the application and shall not return to the treated area within 2 hours after a pesticide application or as specified on the pesticide label, whichever time is greater. If such a situation arises, the appropriate day care center personnel must sign a statement describing the circumstances that gave rise to the health threat and ensure that written notice is provided to parents or guardians as soon as practicable.
 - 4) Pesticides subject to notification requirements shall not include antimicrobial agents, such as disinfectants, sanitizers, or deodorizers, or insecticide baits and rodenticide baits (Section 10.3 of the Structural Pest Control Act).
- o) All garbage and refuse shall be collected daily and stored in a manner that will not permit the transmission of disease, create a nuisance or a fire hazard or provide harborage for insects, rodents or other pests.
 - 1) An adequate number of covered, durable, water-tight, insect and rodent-proof garbage and refuse containers shall be provided for use.
 - 2) Garbage and refuse containers used to discard diapering supplies, food products or disposable meal service supplies shall be tightly covered and lined with plastic. Contents shall be covered immediately or removed for discarding.
 - p) The center shall be cleaned daily and kept in a sanitary condition at all times.
 - 1) The center shall provide necessary cleaning and maintenance equipment.
 - 2) Toys, table tops, furniture and other similar equipment used by children shall be washed and disinfected when soiled or contaminated with matter such as food, body secretions or excrement.
 - 3) Cleaning equipment, cleaning agents, aerosol cans and other hazardous chemical substances shall be labeled and stored in a space designated solely for this purpose. These materials shall be stored in a locked place which is inaccessible to children.

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- q) Kitchen sinks used for food preparation shall not be used as hand-washing lavatories nor counted in the total number of hand-washing lavatories required.
- r) There shall be means for communication in emergencies.
 - 1) An operable non-coin telephone shall be on the premises, easily accessible for use in an emergency and for other communications.
 - 2) A list of emergency telephone numbers, such as the fire department, police department, poison control and emergency medical treatment, along with the full address of the day care center, shall be posted next to each telephone.
 - 3) In facilities where communication between groups is difficult due to the design of the day care center, operation in multiple buildings on the same site or on multiple floors, an intercom or a written plan for other effective means of communication between groups shall be provided.
 - 4) During hours of operation and at all times that children are present, there shall be a means for parents of enrolled children to have direct telephone contact with a center staff person.

(Source: Amended at 29 Ill. Reg. 4502, effective March 15, 2005)

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 March 8, 2005 through March 14, 2005 and have been scheduled for review by the Committee at its April 12, 2005 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
4/21/05	<u>Department of Financial and Professional Regulation – Division of Insurance, Group Health Policy Mandate Applicability to Nonresident Certificateholders Not Employed in Illinois (50 Ill. Adm. Code 2021)</u>	5/21/05 28 Ill. Reg. 7228	4/12/05
4/22/05	<u>Department of Children and Family Services, Rate Setting (89 Ill. Adm. Code 356)</u>	6/11/04 28 Ill. Reg. 7734	4/12/05
4/22/05	<u>Department of Children and Family Services, Purchase of Service (89 Ill. Adm. Code 357)</u>	6/11/04 28 Ill. Reg. 7744	4/12/05
4/22/05	<u>Department of Children and Family Services, Grants-in-Aid (89 Ill. Adm. Code 360)</u>	6/11/04 28 Ill. Reg. 7763	4/12/05
4/22/05	<u>Department of Children and Family Services, Licensing Standards for Child Care Institutions and Maternity Centers (89 Ill. Adm. Code 404)</u>	7/2/04 28 Ill. Reg. 8947	4/12/05
4/23/05	<u>Department of Children and Family Services, Audits, Reviews, and Investigations (89 Ill. Adm. Code 434)</u>	6/11/04 28 Ill. Reg. 7784	4/12/05
4/24/05	<u>Department of Public Health, Hospital</u>	8/20/04	4/12/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

Licensing Requirements (77 Ill. Adm. Code
250)

28 Ill. Reg.
11964

DEPARTMENT OF REVENUE

NOTICE OF AGENCY RESPONSE TO
JOINT COMMITTEE ON ADMINISTRATIVE RULES
OBJECTION TO EMERGENCY RULEMAKING

- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Number: 150.311 Action: Repeal
- 4) Date Notice of Emergency Amendment Published in the Register: 11/19/04; 28 Ill. Reg. 15266
- 5) Date JCAR Statement of Objection Published in the Register: 1/3/05; 29 Ill. Reg. 758
- 6) Summary of Action Taken by the Agency: An incorrect version of the emergency rulemaking was submitted for adoption. The Department will repeal its emergency rulemaking and go forward with its proposed rulemaking for that section, which sets out the proper language.

ILLINOIS DEPARTMENT ON AGING

JANUARY 2005 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Elder Abuse and Neglect Program; 89 Ill. Adm. Code 270

1) Rulemaking:

A) Description: Part 270 will be amended as necessary to reflect recent statutory changes as a result of Public Act 93-300 and Public Act 93-301.

B) Statutory Authority: 320 ILCS 20/10

C) Schedule meeting/hearing dates: No meetings or hearings are scheduled or anticipated.

D) Date agency anticipates First Notice: The Department anticipates filing this rulemaking during the next six months of this year.

E) Effect on small businesses, small municipalities or not for profit corporations: Any entity providing information to senior citizens on elder rights relating to abuse, neglect, financial exploitation, or telemarketing home repair fraud will be affected by this rulemaking.

F) Agency contact person for information:

Name: Karen Alice Kloppe, Assistant General Counsel

Address: Illinois Department on Aging
421 East Capitol Avenue, #100
Springfield, Illinois 62701-1789

Telephone: (217) 785-3346

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citations): Community Based Residential Facilities Demonstration Project; 89 Ill. Adm. Code 280

1) Rulemaking:

A) Description: Part 280 will be amended as necessary to reflect recent statutory changes as a result of Public Act 93-775 by repealing the Community Based Residential Facilities Demonstration Project and establishing the Comprehensive Care in Residential Settings

ILLINOIS DEPARTMENT ON AGING

JANUARY 2005 REGULATORY AGENDA

Demonstration Project in its place.

- B) Statutory Authority: 20 ILCS 105/4.02b, 4.02c
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
- D) Date agency anticipates First Notice: The Department anticipates filing this rulemaking during the next six months of this year.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

Name: Karen Alice Kloppe, Assistant General Counsel

Address: Illinois Department on Aging
421 East Capitol Avenue
Springfield, Illinois 62701-1789

Telephone: (217) 785-3346

- G) Related rulemakings and other pertinent information: None

- c) Parts (Heading and Code Citation): Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act; 89 Ill. Adm. Code 295

- 1) Rulemaking:

- A) Description: New rules will be added as Part 295 to recodify the provisions under 86 Ill. Adm. Code 530 to reflect the re-assignment of administration responsibility for the "Circuit Breaker" Property Tax Relief and Pharmaceutical Assistance Programs which were transferred from the Department of Revenue to the Department on Aging and Department of Public Aid as a result of Executive Order 2004-3, effective July 1, 2004.
- B) Statutory Authority: 320 ILCS 25/12 and Executive Order 2004-3
- C) Schedule meeting/hearing dates: The Department anticipates filing this rulemaking during the next six months of this year.

ILLINOIS DEPARTMENT ON AGING

JANUARY 2005 REGULATORY AGENDA

- D) Date agency anticipates First Notice: No meetings or hearings are scheduled or anticipated.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- | | |
|-------------------|---|
| <u>Name:</u> | Karen Alice Kloppe, Assistant General Counsel |
| <u>Address:</u> | Illinois Department on Aging
421 East Capitol Avenue, #100
Springfield, Illinois 62701-1789 |
| <u>Telephone:</u> | (217) 785-3346 |
- G) Related rulemakings and other pertinent information: The Department of Public Aid is recodifying certain provisions relating to the Pharmaceutical Assistance Program as Part 119 of Title 89.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER

THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a fine of \$500 against EZM Mortgage, Inc., License No. MB.0005457 of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 4, 2005. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PENALTY FEE IMPOSED UNDER

THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has issued a penalty fee of \$2,300 against EZM Mortgage, Inc., License No. MB.0005457, of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 4, 2005. For further reference link to: <http://www.obre.state.il.us/>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF SUSPENSION IMPOSED UNDER

THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banks and Real Estate, of the State of Illinois has suspended the license of Country & Sol Mortgage, LLC, License No. MB.0006236 of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 4, 2005. For further reference link to: <http://www.obre.state.il.us/>

PROCLAMATIONS

2005-63**Illinois Museum Day**

WHEREAS, museums have long been places where cultural and natural history have been preserved for all people to appreciate; and

WHEREAS, museums provide unique educational opportunities because they serve as portals to the past by preserving and studying important artifacts and providing special programs, exhibits and activities which enhance the public knowledge of history, the arts, science, and industry. This allows people of all ages to learn about the past, examine the present and look to the future; and

WHEREAS, Illinois museums serve as economic engines for our state by providing employment for thousands of our citizens and attracting tourists from across the country; and

WHEREAS, on March 9th, museums from across the state will set up exhibits in the capitol rotunda to raise awareness of the important role museums play in our society:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 9, 2005 as ILLINOIS MUSEUM DAY and encourage all citizens to recognize the importance of preserving these valuable institutions.

Issued by the Governor March 8, 2005.

Filed by the Secretary of State March 8, 2005.

2005-64**Dance Marathon Weekend**

WHEREAS, Northwestern University's Dance Marathon is one of the largest student-run philanthropic groups in the world, where dancers raise money starting in the fall and the fundraising efforts culminate with thirty hours of dancing in March; and

WHEREAS, in its 31st year, Dance Marathon 2005 is primarily benefiting the Juvenile Diabetes Research Foundation, and in the past, primary beneficiaries have received nearly half a million dollars; and

WHEREAS, twelve committees work all year to prepare for the five hundred dancers who participate during the big weekend; and

WHEREAS, carnivals, a 5K run along Lake Michigan, pageants, and other related activities also take place during Dance Marathon, attracting 15, 000 visitors to Norris University Center:

THEREFORE, I Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 4 – 6, 2005, as DANCE MARATHON WEEKEND in the State of Illinois and applaud the dedication of each dancer.

Issued by the Governor March 9, 2005.

Filed by the Secretary of State March 9, 2005.

2005-65**ARTS IN EDUCATION SPRING CELEBRATION MONTHS**

PROCLAMATIONS

WHEREAS, arts are the personification of beauty in the world, and help to preserve our cultural heritage; and

WHEREAS, the State of Illinois declares that arts education, which includes dance, drama, music and visual arts, plays an essential role in the education of all students, providing them with a balanced education that will aid in developing their full potential; and

WHEREAS, the Peoria County Regional Office of Education is committed to the establishment and continuation of school programs that provide students with the opportunity to achieve academic excellence; and furthermore, they are committed to supporting the development and promotion of fine and applied arts programs; and

WHEREAS, the Arts in Education Spring Celebration, an annual event, is held at the Peoria County Courthouse Plaza and provides a venue for students in grades pre-Kindergarten through 12 to showcase their works and talents; and

WHEREAS, this year, the Arts in Education Spring Celebration will be held April 18th through May 27th and will mark the 20th anniversary of this event; and

WHEREAS, the State of Illinois resolutely supports events such as the Arts in Education Spring Celebration, and commends the students and teachers who work to bring the beauty of art to this great state:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April and May 2005 as ARTS IN EDUCATION SPRING CELEBRATION MONTHS in Illinois and encourage all citizens to recognize the benefits of arts programs in our schools.

Issued by the Governor March 10, 2005.

Filed by the Secretary of State March 10, 2005.

2005-66**POSTPARTUM DEPRESSION AWARENESS MONTH**

WHEREAS, the birth of a baby can be one of the biggest and happiest events in a woman's life. However, at the same time, life with a new baby can be hard and stressful; and

WHEREAS, women experience many physical and emotional changes while pregnant and after giving birth. These changes can leave new mothers feeling sad, anxious, afraid, or confused; and

WHEREAS, the "baby blues" is an extremely common reaction occurring in women during the first few days after delivery, which results in sudden mood swings, sadness, and anxiety. Usually appearing suddenly on the third or fourth day, it can affect up to 80 percent of women who have just given birth and can last only a few hours or as long as one to two weeks; and

WHEREAS, problems arise when women who have recently given birth experience reactions that exceed that of "baby blues." Postpartum depression, which has symptoms similar to the "baby blues" only stronger, may affect a woman's ability to function. Postpartum psychosis, an even more serious reaction to childbirth, is a very serious mental illness that can cause women to lose touch with reality; and

PROCLAMATIONS

WHEREAS, treatment varies for disorders associated with depression after delivery, depending on the type and severity of symptoms. A woman experiencing any of the symptoms described should immediately contact a health care professional:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2005 as POSTPARTUM DEPRESSION AWARENESS MONTH in Illinois, and encourage all citizens to become cognizant of the symptoms and the seriousness of this disorder. Issued by the Governor March 10, 2005.

Filed by the Secretary of State March 10, 2005.

2005-67**CENTER ON HALSTED DAY**

WHEREAS, this is the 16th year of the Human First gala celebration; and

WHEREAS, Center on Halsted will be a multi-purpose, multi-functional facility for the lesbian, gay, bisexual, and transgender (LGBT) community of Chicago and the Midwest; and

WHEREAS, all the historical perspective of a successful 32-year-old social services agency (Horizons Community Services) is being brought to bear as the Center celebrates a new board of directors, expanded staffing, and an increased program focus in three major areas – youth, mental health, and community programming; and

WHEREAS, in a safe and nurturing environment, Center on Halsted will serve as a catalyst that links and provides community resources and enriches life experiences; and

WHEREAS, the Center will empower individuals to live full, healthy, and integrated lives, and will help to strengthen the community by respecting all differences, celebrating diversity and fostering collaborative responses to community needs; and

WHEREAS, the life-saving dream of the Center on Halsted is being realized through the generosity of the City, the community, and the neighborhood:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April 9, 2005, as CENTER ON HALSTED DAY in Illinois, and encourage citizens to join in recognizing the terrific efforts that the Center on Halsted puts forth in service to the LGBT community of Chicago and the Midwest.

Issued by the Governor March 10, 2005.

Filed by the Secretary of State March 10, 2005.

2005-68**4-H DAY**

WHEREAS, in the late 1890's and early 1900's, 4-H programs began to form across the United States to provide the youth of our country with a strong agricultural education; and

WHEREAS, throughout the years, the overall objectives of 4-H have remained the same: the development of youth as individuals and as responsible and productive citizens; and

PROCLAMATIONS

WHEREAS, the 4-H program makes an effort to complement the formal education, experiences, and skills that young people have already acquired through their homes, schools, and religious organizations, with action-oriented and practical educational experiences; and

WHEREAS, more than 25,000 caring, nurturing adults work together with 4-H youth in family and community environments to create real life learning laboratories that help youth practice skills they need today and will continue to use in the future; and

WHEREAS, today, 4-H is the largest youth organization in the State of Illinois, challenging nearly 300,000 Illinois youth and adults with unique “hands on” learning each year; and

WHEREAS, many Illinois 4-H members and their parents will attend Legislative Connection IX, an all-day event geared towards educating 4-H youth on the legislative process:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 16, 2005 as 4-H DAY in Illinois, and urge the citizens of Illinois to salute the rich traditions of Illinois 4-H club work and the outstanding accomplishments of Illinois 4-H members and leaders.

Issued by the Governor March 10, 2005.

Filed by the Secretary of State March 10, 2005.

2005-69**WORLD TB DAY**

WHEREAS, one-third of the world’s population is infected with tuberculosis (TB), an airborne communicable disease; and

WHEREAS, 10 percent of those infected with tuberculosis will develop TB disease in their lifetime; and

WHEREAS, each year, more than 8 million people around the world will develop TB disease and more than 2 million will die from the disease; and

WHEREAS, in Illinois, TB disease afflicts more than 5 of every 100,000 people, a rate slightly lower than the national average due to aggressive TB control programs at state and local health department levels; and

WHEREAS, those at higher risk for progressing from TB infection to disease are individuals with HIV and other medical conditions that comprise the immune system, persons recently infected with the TB bacillus, those with a history of inadequately treated TB, and persons who inject illicit drugs; and

WHEREAS, World TB Day commemorates the discovery of the TB bacillus by Dr. Robert Koch in 1882 and focuses attention on the fact that TB is a highly curable disease that still affects millions of people worldwide:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 24, 2005, as WORLD TB DAY in Illinois, and urge all citizens to increase their awareness and understanding of TB infection and disease and to join the global effort to stop the spread of this disease.

Issued by the Governor March 10, 2005.

PROCLAMATIONS

Filed by the Secretary of State March 10, 2005.

2005-70
Seed Month

WHEREAS, the abundance of Illinois' crops rely on fertile soil, diligent farmers, and high quality seeds; and

WHEREAS, to ensure that seeds are of the highest quality, there must be agricultural-minded seed producers, conscientious inspectors, skilled technicians, and concerned dealers; and

WHEREAS, agriculture and the seed industry significantly contribute to our state's economy with value-added products marketed throughout the world; and

WHEREAS, the Bureau of Agricultural Products Inspection within the Illinois Department of Agriculture tests the purity and germination of seeds, validates the accuracy of product labels, and cooperates with the Illinois Crop Improvement Association, which is the state's official seed-certifying agency, and an independent, nonprofit organization; and

WHEREAS, in cooperation with educational and regulatory agencies, the Illinois Seed (Trade) Association has sustained an informed membership, the latest research developments, the production of high-quality seed, and has developed an effective seed program advocating pertinent legislation:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April 2005 as SEED MONTH in Illinois in appreciation of the seed industry's contribution to supplying food and fiber to the world through the production of Illinois crops.

Issued by the Governor March 11, 2005.

Filed by the Secretary of State March 11, 2005.

2005-71
Armenian Martyrs Day

WHEREAS, the Armenian community, as well as the global community, remembers the Armenian Genocide, which occurred 90 years ago; and

WHEREAS, during this tragic historical period between the years of 1915 and 1923, Armenians were forced to witness the genocide of their loved ones, and the loss of their ancestral homelands; and

WHEREAS, this extermination and forced relocation of over 1.5 million Armenians by the Ottoman Turks is recognized every year; and

WHEREAS, Armenians continue to be a people full of hope, courage, faith and pride in their heritage, working together to rebuild a firm foundation for Armenia; and

WHEREAS, many of the fifteen-thousand Armenian-Americans in Illinois are descendents or survivors of the Armenian genocide, and have been forthright in their efforts to preserve their culture, heritage and language, while contributing much to our state and our nation's diverse society and economy; and

PROCLAMATIONS

WHEREAS, both recognition and education concerning past atrocities such as the Armenian Genocide is crucial in the prevention of future crimes against humanity:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April 24, 2005 as ARMENIAN MARTYRS DAY in Illinois, in honor of the 90th Anniversary of the Armenian Genocide.

Issued by the Governor March 11, 2005.

Filed by the Secretary of State March 11, 2005.

ILLINOIS ADMINISTRATIVE CODE Issue Index - With Effective Dates

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