

2006

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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Editors Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 16, 2006 to January 2, 2007 by noon as January 1, 2007 is a holiday and the office is closed.

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2006

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 27, 2005	January 6, 2006
2	January 3, 2006	January 13, 2006
3	January 9, 2006	January 20, 2006
4	January 17, 2006	January 27, 2006
5	January 23, 2006	February 3, 2006
6	January 30, 2006	February 10, 2006
7	February 6, 2006	February 17, 2006
8	February 14, 2006	February 24, 2006
9	February 21, 2006	March 3, 2006
10	February 27, 2006	March 10, 2006
11	March 6, 2006	March 17, 2006
12	March 13, 2006	March 24, 2006
13	March 20, 2006	March 31, 2006
14	March 27, 2006	April 7, 2006
15	April 3, 2006	April 14, 2006
16	April 10, 2006	April 21, 2006
17	April 17, 2006	April 28, 2006
18	April 24, 2006	May 5, 2006
19	May 1, 2006	May 12, 2006
20	May 8, 2006	May 19, 2006
21	May 15, 2006	May 26, 2006
22	May 22, 2006	June 2, 2006
23	May 30, 2006	June 9, 2006
24	June 5, 2006	June 16, 2006
25	June 12, 2006	June 23, 2006
26	June 19, 2006	June 30, 2006
27	June 26, 2006	July 7, 2006
28	July 3, 2006	July 14, 2006
29	July 10, 2006	July 21, 2006
30	July 17, 2006	July 28, 2006
31	July 24, 2006	August 4, 2006
32	July 31, 2006	August 11, 2006
33	August 7, 2006	August 18, 2006
34	August 14, 2006	August 25, 2006
35	August 21, 2006	September 1, 2006
36	August 28, 2006	September 8, 2006
37	September 5, 2006	September 15, 2006
38	September 11, 2006	September 22, 2006
39	September 18, 2006	September 29, 2006
40	September 25, 2006	October 6, 2006
41	October 2, 2006	October 13, 2006
42	October 10, 2006	October 20, 2006

43	October 16, 2006	October 27, 2006
<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
44	October 23, 2006	November 3, 2006
45	October 30, 2006	November 13, 2006
46	November 6, 2006	November 17, 2006
47	November 13, 2006	November 27, 2006
48	November 20, 2006	December 1, 2006
49	November 27, 2006	December 8, 2006
50	December 4, 2006	December 15, 2006
51	December 11, 2006	December 22, 2006
52	December 18, 2006	December 29, 2006

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Construction and Filing of Accident and Health Insurance Policy Forms
- 2) Code Citation: 50 Ill. Adm. Code 2001
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
2001.2	New Section
2001.10	Amendment
2001.20	Amendment
2001.30	Amendment
- 4) Statutory Authority: Implementing Sections 143, 355, 356a and Articles IX and XX and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, 132 et seq., 156 et seq. and 401]
- 5) A Complete Description of the Subjects and Issues Involved: The Division has made a number of housekeeping changes that more accurately reflect the consolidation of our agency under IDFPR. The Division has also added a definition Section identifying terms that were not previously specifically defined.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking 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:

Eve Blackwell-Lewis, Senior Staff Attorney
Department of Financial and
Professional Regulation
Division of Insurance

Barb Smith, Rules Coordinator
Department of Financial and
Professional Regulation
320 West Washington

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320 West Washington, 4th Floor or 3rd Floor
Springfield, Illinois 62767-0001 Springfield, Illinois 62767-0001

217/782-2867 217/785-0813

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This amendment does not affect small businesses, small municipalities and/or not for profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: No new requirements are being added.
 - C) Types of professional skills necessary for compliance: Administrative
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was inadvertently not included on either of the 2 most recent agendas.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCEPART 2001
CONSTRUCTION AND FILING OF ACCIDENT AND HEALTH
INSURANCE POLICY FORMS

SUBPART A: PROVISIONS APPLICABLE TO INDIVIDUAL AND GROUP POLICIES

Section

2001.1	Applicability
<u>2001.2</u>	<u>Definitions</u>
2001.3	Discretionary Clauses Prohibited

SUBPART B: PROVISIONS APPLICABLE TO INDIVIDUAL POLICIES

Section

2001.10	Applicability
2001.20	Construction of Accident and Health Insurance Policy Forms
2001.30	Filing of Policy Forms

AUTHORITY: Implementing Sections 143, 355, 356a and Articles IX and XX and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, 132 et seq., 156 et seq. and 401].

SOURCE: Filed and effective April 1, 1952; codified at 7 Ill. Reg. 3471; amended at 20 Ill. Reg. 14405, effective October 25, 1996; amended at 29 Ill. Reg. 10172, effective July 1, 2005; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: PROVISIONS APPLICABLE TO INDIVIDUAL AND GROUP POLICIES

Section 2001.2 Definitions

The following definitions shall apply to this Part:

Code means the Illinois Insurance Code [215 ILCS 5].

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

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Division means the Illinois Department of Financial and Professional Regulation-Division of Insurance.

(Source: Added at 31 Ill. Reg. _____, effective _____)

SUBPART B: PROVISIONS APPLICABLE TO INDIVIDUAL POLICIES

Section 2001.10 Applicability

This Subpart shall apply to:

- a) Individual accident and health policy, certificate, endorsement, rider and application forms filed with ~~the Division~~~~this Department~~ by both foreign and domestic companies with respect to Section 143, Article IX and Article XX of the ~~Illinois Insurance~~ Code [215 ILCS 5/143, Art. IX and Art. XX].
- b) This Part shall also apply to individual policy, certificate, endorsement, rider and application forms filed in accordance with Section 356a of the ~~Illinois Insurance~~ Code [215 ILCS 5/356a].
- c) The filing procedure for accident and health forms as required by Section 355 of the ~~Illinois Insurance~~ Code [215 ILCS 5/355].
- d) The filing procedure for accident and health insurance policy forms prescribed by 50 Ill. Adm. Code 916.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 2001.20 Construction of Accident and Health Insurance Policy Forms

- a) Section 356a Form of Policy.
 - 1) Each policy form of a domestic company ~~that~~~~which~~ is issued for delivery to a person residing in another state, must be approved by the Director unless such policy form is subject to approval or disapproval by such other state.
- b) Section 357.1 Accident and Health Policy Provisions Required.
 - 1) In order to expedite departmental action on policies submitted for

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approval, it is requested that companies adhere to the statutory wording and order of the required provisions. Policies submitted ~~that~~^{which} include variations from the statutory words and order must be accompanied by a complete list of all variations and a justification for each. Extensive variations, without adequate justification, will only result in delay in the processing of such policies. The companies' cooperation in keeping such variations to a minimum is essential.

- 2) Each provision of Section 357.2 through 357.113 of the ~~Illinois Insurance~~ Code [215 ILCS 5/357.2 through 357.113] must be preceded by a caption and if the captions differ in any respect from the captions appearing in the law changes must be clearly indicated and justified pursuant to subsection 2001.20(b)(1) ~~above~~.
 - 3) Numbering of the "Required Provisions" will not be required.
- c) Section 359a Application.
- 1) Where an Industrial Accident and Health policy is issued upon signed application of the person to be insured, such application shall conform with Section 359a of the ~~Illinois Insurance~~ Code [215 ILCS 5/359a].
 - 2) The Application:
 - A) Where changes are made on the application for administrative purposes only, such changes must be clearly indicated.
 - B) Where the application is subject to being changed for administrative purposes by the insurer, such application shall clearly indicate that any such changes are not to be ascribed to the applicant.
- d) Section 361a Age Limit.
Any policy form containing an "age limit" shall contain in substance a provision setting forth the limitations of Section 361a of the ~~Illinois Insurance~~ Code [215 ILCS 5/361a].
- e) Section 362a Non-Application to Certain Policies.
Section 362a(3) of the ~~Illinois Insurance~~ Code [215 ILCS 5/362a(3)] does not apply to group accident and health insurance provided for under Section

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356a(1)(c) of the ~~Illinois Insurance~~ Code [215 ILCS 5/356a(1)(c)].

- f) Section 368 Industrial Accident and Health Insurance.
The ~~Division~~Department will require Industrial Accident and Health policy forms to be of the same form and content as other accident and health insurance policy forms required to be filed pursuant to Section 355 of the ~~Illinois Insurance~~ Code [215 ILCS 5/355], except Industrial Accident and Health Policies shall be issued on a weekly premium basis and contain the words "Industrial Policy" printed on each form.
- g) All provisions of the Third Edition of the Official Guide ~~that~~which are consistent with the statute will be required.
- h) Accident and Health Insurance:
- 1) May only be defined as insurance against bodily injury, disablement or death by accident and against disablement resulting from sickness or old age and every insurance appertaining thereto.
 - 2) Terms such as "external" and "violent" in connection with the definition of accident and health insurance are not acceptable.
- i) The information required in Section 356a(1)~~;~~(a) and (b) of the ~~Illinois Insurance~~ Code [215 ILCS 5/356a(1)(a) and (b)] must appear in the policy form itself or on its schedule page and cannot be added to the policy by rider, endorsement, or supplement. Although riders, endorsements and supplements, when attached to the policy form, become a part of the contract, it is evident the law intends that the aforementioned information be made a part of the policy form itself, since this Section specifically refers to the policy and distinguishes between the policy forms, riders and endorsements.
- j) Funeral benefits will not be permitted in accident and health contracts.
- k) If hospitals are defined in accident and health contract forms presented for use in this State, then an appropriate definition must be used. A term such as "legally operated hospital" or any other definition ~~that~~which is definite and applicable in this State, will be accepted.
- l) Waiting period provisions in accident and health insurance contracts ~~that~~which stipulate the contract must be maintained in "continuous force" or "in force for

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_____ months after the effective date of the policy" or "in force for _____ months prior to the date of the loss," will not be accepted. Such provisions do not adequately and clearly cover reinstatements and therefore, such waiting periods must be based upon the loss occurring _____ months after the effective date of the policy and read similar to: No indemnity will be paid for loss ~~that~~^{which} occurs, or commences, prior to _____ months after the effective date of the policy.

- m) Additional waiting periods for certain designated diseases or illnesses based upon inception beyond the usual customary 15 to 30 days provided for in the Insuring Provisions are not permissible. If additional waiting periods are deemed necessary by the company for certain diseases and illnesses, then the ~~Division~~^{Department} requires that such waiting periods be based upon the loss occurring so many months after the effective date of the policy rather than being based on the inception of the illness or disease.
- n) "Strict compliance provisions" in accident and health insurance contracts will not be acceptable for use in this State.
- o) Any specific requirement for medical attendance by a licensed physician other than that attendance ~~that~~^{which} is normally and customarily required for the disease or accident resulting in loss for which claim is made, will not be acceptable.
- p) In accident and health insurance contracts ~~that~~^{which} include "medical attendance benefits" and "surgical benefits" and limits liability to only one, provision must be made for the payment of the greater benefit.
- q) Broad, indefinite, ambiguous and inconsistent language must be excluded from all accident and health insurance forms. Examples of such wording are:
 - 1) The use of the words "indirectly" and "partly" in connection with Exclusions, Limitations and Reductions,
 - 2) The use of the word "reasonable" when used in connection with medical attendance or any other condition or requirement included in the policy form, unless use of such word results in the provision being more favorable to the insured.
 - 3) The use of such words as "appendages" "involving", "affecting", etc. in connection with specified physical conditions. Medical terms should be

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definite, for instance, various types of hernia should be spelled out, or provide a general statement that all types of hernia are meant.

- r) Surgical Benefit Provisions in accident and health insurance contracts must include and provide either:
 - 1) That all operations will be covered not to exceed a stipulated amount for any operation that may be performed, or
 - 2) The inclusion of a schedule of operations thatwhich includes:
 - A) Comparable benefits for operations of comparable severity;
 - B) A provision thatwhich requires the company to pay a benefit for any operation not listed in the schedule, based on an amount equivalent to that specified for a listed operation of comparable severity; and
 - C) A provision thatwhich requires the company to pay for that operation which provides the largest benefit when the company's liability is limited to one operation where more than one is performed, under named or enumerated conditions.
- s) Surgical benefit provisions thatwhich are contingent upon payment of a hospital confinement benefit will not be approved.
- t) Benefits for hospital room thatwhich are based upon the actual expense incurred, may be made contingent only upon a charge being made by the hospital. Benefits payable on a stated or flat rate basis, regardless of the amount of expense incurred, may make the benefit contingent upon hospital confinement of so many hours.
- u) Premium, Cancellation and Renewal Provisions:
 - 1) Waiver of Premium Provisions must include a statement of coverage and of the insured's rights and obligations regarding the resumption of premium payments after the period of total disability has terminated during which the premium has been waived. This statement must read similarly to: After the termination of the period of total disability, during which a premium has been waived, the insurance afforded in this contract

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shall continue in full force and effect until the next premium due date, at which time the insured shall have the right to resume the payment of premiums as provided in the contract.

- 2) If a premium is to be charged for the period from the expiration of the period of total disability during which a premium has been waived and the expiration date of the policy, then a statement of this fact must be added to the provision together with a provision that the insurer will notify the insured of the premium due.
- 3) A policy ~~that~~^{which} contains a cancellable provision may add at the end of the provision in (u)(2)-~~above~~, "subject to the right of the insurer to cancel in accordance with the cancellation provision hereof."
- 4) A policy in which the insurer reserves the right to refuse any renewal premiums, shall add, "unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by records of the insurer, written notice of its intention not to renew this policy beyond the period for which the premium has been waived."
- v) Requirements for the so-called "franchise insurance" are different from those for individual contracts in the following respects: Termination either by cancellation or refusal to renew any individual contracts of the group is prohibited, unless all like contracts of the group are terminated at the expiration of the contracts and upon at least ten days' notice in advance. The only other termination conditions ~~that~~^{which} may be included in such contracts are those which terminate coverage because of nonpayment of premium, discontinuance of employment of the insured by the named employer or the discontinuance of membership in the designated organization or association, and in addition, coverage may be automatically terminated at a designated attained age.
- w) Policy forms ~~that, which~~ in the opinion of the ~~Division~~^{Department}, will invite misrepresentations in the advertising and sale of the same, due to the restrictive nature of such forms as a result of unusual and/or over-lapping exclusions, limitations, reductions, or conditions, will not be accepted for use in this State.
- x) Time limitations, when included in benefit provisions, must be explained in terms such as hours, days, weeks, months or years. Terms such as "immediately" or "reasonably" are not acceptable, unless use of such words make the provision

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more favorable to the insured.

- y) Policy contracts issued by assessment companies must include a provision setting forth the contingent liability of the insured and should be based upon the regular premium provided in the policy, and in addition thereto, such premium payments as may be required by the company from time to time. This provision should be placed in the contract with equal prominence to the benefit provisions.
- z) Where a contingent liability provision is included in a contract issued by a mutual company as provided for in Section 55 of the ~~Illinois Insurance~~ Code [215 ILCS 5/55], the contingent liability of the policyholder must be based upon not less than one nor more than ten times the amount of the premium expressed in the continuation paragraph of the policy. This provision should be placed in the contract with equal prominence to the benefit provisions.
- aa) Limited policy contracts will not be approved thatwhich, in the opinion of the Director, set forth in a more prominent manner the provisions for relatively large benefits for specified accidents of rare occurrence than provisions for relatively low benefits for accidents of more frequent occurrence. Accumulative indemnities benefits are permissible, but schedules showing such benefits will not be approved in accident and health contracts.
- bb) Riders, Endorsements and Exclusions:
 - 1) Riders and endorsements thatwhich are not complete in themselves must be accompanied by the fill in material to be used therewith, to be acceptable.
 - 2) Exclusion of coverage riders and endorsements, executed subsequent to the issuance of the policy, must provide for the signed acceptance of the insured in addition to a statement to the effect that such rider or endorsement is not valid unless signed by the insured. Policy forms thatwhich unilaterally reduce benefits must be formally approved by the Director prior to the date they are attached to a policy issued or delivered in this State.
 - 3) Riders or endorsements submitted for the purpose of amending forms submitted in accordance with Section 355 of the ~~Illinois Insurance~~ Code [215 ILCS 5/355], so that such forms will comply with the requirements of the ~~Illinois Insurance~~ Code or regulations of this DivisionDepartment,

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will not be accepted for approval, unless the Director is given an adequate justification, in writing, for the use of such riders or endorsements.

- cc) Application:
- 1) Questions in an application pertaining to diseases or conditions must be broken down so that applicants may insert their answer at least after every four or five diseases or conditions listed unless questions are grouped as to related diseases or conditions.
 - 2) Application forms ~~that~~which are completed by individuals for themselves and others cannot include a certification as to the correctness of the answers in the application without some qualifications, preferably in the Attestation Provision, and should read similar to "to the best of your knowledge", or "to the best of your knowledge and belief". The courts have held that answers to the questions are given to the best of the applicant's belief, and the ~~Division~~Department sees no reason why the aforementioned qualification should not be contained in the application.
 - 3) The receipt and/or application or policy provisions may provide that the insurance shall be effective upon issuance and the payment of the first premium while the insured is in good health. Provisions ~~that~~which provide the insurance shall not become effective until delivery of the policy while the insured is in good health, will not be acceptable.
- dd) Where the application provides for a written proxy, such proxy must be executed over the separate signature of the applicant. The signature required for the application in accordance with Section 359a of the ~~Illinois Insurance~~Code [215 ILCS 5/359a] may not be used to satisfy this requirement.
- ee) Advertising appearing on an application form, or any other form that requires the approval of the Director, is reviewed and filed by the Director in conjunction with the approval of the form. This is in conformity with Section 143 of the ~~Illinois Insurance~~Code [215 ILCS 5/143].
- ff) The Director requires that any form, previously approved and subsequently revised, must be submitted under a new form number, and be approved in accordance with Section 143 of the ~~Illinois Insurance~~Code (~~Supra~~). This applies to advertising appearing on applications or other forms approved by the Director. The only exception to this is advertising ~~that~~which contains statistical

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information, such as the amount of claims paid or assets. For changes of this kind, the insurer need not submit a new form number, but only advise the ~~Division~~Department in writing as to the change in the statistical information and the date of change. Advertising is not subject to approval but is filed for informational purposes only. See 50 Ill. Adm. Code 916 for appropriate transmittal sheets and instructions.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 2001.30 Filing of Policy Forms

- a) Policy forms, riders and endorsements must be formally filed pursuant to 50 Ill. Adm. Code 916 as follows:
 - 1) Two copies of all such forms shall be submitted in blank. If the form does not clearly indicate the place for the name of the insured, time the insurance becomes effective, and the benefits, it will be required that such forms be completed at the time of issuance.
 - 2) Each form must bear an identifying form number in the lower left corner of the first page. The form number is limited to ~~thirty (30)~~ characters. No other date, except the inclusion of a printing date and/or designation of a state, where a special edition is required, will be permitted in such space.
 - 3) The insurer shall file a letter of submission ~~as required by 50 Ill. Adm. Code 916.40(b)(1) through (6)~~ containing:
 - A) The name of the form, if any, and identifying form number.
 - B) If the submission is a new form, so state.
 - C) If the form is intended to supersede another, give the form number of the form replaced and the date it was approved by this ~~Division~~Department and highlight all changes from the previously approved form. Any changes not highlighted will not be deemed to be approved.
- b) Copies of the policy forms, riders and endorsements will be retained in the files of this ~~Division~~Department. Under no circumstances will copies of forms be returned to the company with our stamp of approval thereon. Notice of approval

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will be given by letter or copy of the submitted transmittal form with the
| Division's~~Department's~~ stamp affixed ~~thereto~~.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
140.994	New Section
140.995	New Section
140.996	New Section
140.997	New Section
- 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: The proposed amendment, establishes panel sizes and defines the ability of providers to affiliate; defines the mandatory enrollment process; defines those services that are direct access, and sets forth a provision that providers will be denied payment for services provided without a referral.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency amendments currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.490	Amendment	30 Ill. Reg. 12066; 07/14/06
140.492	Amendment	30 Ill. Reg. 12066; 07/14/06
140.990	New Section	30 Ill. Reg. 13633; 08/18/06
140.991	New Section	30 Ill. Reg. 13633; 08/18/06
140.992	New Section	30 Ill. Reg. 13633; 08/18/06
140.993	New Section	30 Ill. Reg. 13633; 08/18/06
140.13	Amendment	30 Ill. Reg. 14007; 08/25/06
140.15	Amendment	30 Ill. Reg. 14007; 08/25/06
140.18	Amendment	30 Ill. Reg. 14007; 08/25/06
140.20	Amendment	30 Ill. Reg. 14007; 08/25/06
140.24	Amendment	30 Ill. Reg. 14007; 08/25/06

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140.25	Amendment	30 Ill. Reg. 14007; 08/25/06
140.28	Amendment	30 Ill. Reg. 14007; 08/25/06
140.30	Amendment	30 Ill. Reg. 14007; 08/25/06
140.33	Amendment	30 Ill. Reg. 14007; 08/25/06
140.1001	Amendment	30 Ill. Reg. 14007; 08/25/06
140.1002	Amendment	30 Ill. Reg. 14007; 08/25/06
140.1003	Amendment	30 Ill. Reg. 14007; 08/25/06
140.1004	Amendment	30 Ill. Reg. 14007; 08/25/06
140.1005	Amendment	30 Ill. Reg. 14007; 08/25/06
140.469	Amendment	30 Ill. Reg. 17719; 11/13/06
140.526	Amendment	30 Ill. Reg. 17719; 11/13/06
140.530	Amendment	30 Ill. Reg. 17719; 11/13/06
140.860	Amendment	30 Ill. Reg. 17719; 11/13/06

- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Tamara Tanzillo Hoffman
 Chief of Administration and Rules
 Illinois Department of Healthcare and Family Services
 201 South Grand Avenue East, 3rd Floor
 Springfield IL 62763-0002

217/557-7157

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

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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.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Health care providers
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: These proposed amendments were not included on either of the two most recent regulatory agendas because: this rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page 19400:

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Number: 1030.83 Proposed Action: Amendment
- 4) Statutory Authority: 625 ILCS 5/2-104 and 625 ILCS 5/6-521
- 5) A Complete Description of the Subjects and Issues Involved: Requirements for hazardous material endorsement. This amendment is necessary in order to come into compliance with the Federal Motor Carrier Safety Regulations.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace any emergency rulemaking currently in effect?
No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed amendment contain incorporations by reference? Yes – 49 CFR 383, 49 U.S.C. 5103, 49 CFR 172(f) and 43 CRF part 73
- 10) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1030.11	Amendment	30 Ill. Reg. 11334; 6/30/2006
1030.65	Amendment	30 Ill. Reg. 18077; 11/17/2006
1030.81	Amendment	30 Ill. Reg. 16262; 10/13/2006
1030.82	Amendment	30 Ill. Reg. 16262; 10/13/2006
1030.85	Amendment	30 Ill. Reg. 16262; 10/13/2006
1030.96	Amendment	30 Ill. Reg. 16895; 10/27/2006
1030.98	Amendment	30 Ill. Reg. 16895; 10/27/2006

- 11) Statement of Statewide Policy Objectives: The rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Texts of the prepared amendments are posted on the Secretary of State's

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website, www.sos.il.us/departments/index/home as part of the Illinois Register. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to:

Office of the Secretary of State
Driver Services Department
JoAnn Wilson, Legislative Liaison
C/o Director's Office
2701 South Dirksen Parkway
Springfield IL 62723

217/785-1441

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1030
ISSUANCE OF LICENSES

Section	
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License
1030.12	Driver's License Medical Advisory Board
1030.13	Denial of License or Permit
1030.15	Cite for Re-examination
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.82	Charter Bus Driver Endorsement Requirements
1030.83	Hazardous Material Endorsement
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts – Written and/or Road Tests
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Licenses
1030.90	Requirement for Photograph and Signature of Licensee on Driver's License
1030.91	Disabled Person/Handicapped Identification Card
1030.92	Restrictions
1030.93	Restricted Local Licenses
1030.94	Duplicate or Corrected Driver's License or Instruction Permit

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- 1030.95 Consular Licenses (Repealed)
- 1030.96 Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Commercial Driver's License
- 1030.100 Anatomical Gift Donor
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill.

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Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 1030.83 Hazardous Material Endorsement

- a) Section 1030.83 Definitions

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"Adjudicate" – to make an administrative determination of whether an applicant meets the standards in this Part based on the merits of the issues raised.

"Applicant" – an individual who is applying for a new, renewal, or transfer hazardous materials endorsement.

"Authorized Secretary of State Employee" – a Secretary of State Driver Services Facility employee.

"Cancellation" – cancellation of a CDL with a HME – the annulment or termination by formal action of the Secretary of State of an applicant's CDL individual's commercial motor vehicle license with a HME who is no longer entitled to such license in accordance with a notification from the Transportation Security Administration (TSA) that the endorsement holder poses a security threat warranting denial of a hazardous material endorsement.

"Commercial Driver's License" or "CDL" – a ~~driver's~~ license issued by a state or other jurisdiction, in accordance with the standards contained in 49 CFR 383, to an individual a person that authorizes the individual person to operate drive a certain class of commercial motor vehicle ~~or vehicles (see 625 ILCS 5/6-500).~~

"Commercial Motor Vehicle" – a motor vehicle, used in commerce, having a Gross Vehicle Weight Rating (GVWR) of 26,001 pounds or more, or such lesser GVWR as subsequently determined by Federal regulations or the Secretary of State; or any combination of vehicles with a Gross Combination Weight Rating (GCWR) of 26,001 pounds or more, provided the GVWR of any vehicles being towed is 10,001 pounds or more; or a vehicle designed to transport 16 or more persons; or a vehicle transporting hazardous materials that is required to be placarded. The definition does not include recreational vehicles when operated primarily for personal use, military vehicles being operated by non-civilian personnel or firefighting equipment owned or operated by or for a governmental entity.

"Commercial Instruction Permit" or "CIP" – a permit issued pursuant to 625 ILCS 5/6-508.

"Day" – a calendar day.

"Driver" – any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a CDL.

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"Driver License Facility" – facility operated by the Secretary of State where driving examinations are administered and driver's licenses are issued.

"Final Notification of Threat Assessment" – a final administrative determination by the TSA that an individual poses a security threat warranting denial of the authorization for which the individual is applying, including the resolution of related appeals.

~~"Hazardous Material" – upon a finding by the United States Secretary of Transportation, in his or her discretion, under 49 USC 5103a, that the transportation of a particular quantity and form of material in commerce may pose an unreasonable risk to health and safety or property, he or she shall designate the quantity and form of material or group or class of materials as a hazardous material. The materials so designated may include but are not limited to explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible materials, and compressed gases.~~

"Hazardous Material" – means any material that has been designated as hazardous under 49 USC 5103 and is required to be placarded under subpart F of 49 CFR 172 or any quantity of a material listed as a select agent or toxin in 43 CFR 73 (see 49 CFR 383.5).

"Hazardous Material Endorsement" or "HME" – an indicator on the driver's license that the driver is qualified to transport hazardous materials that require placarding.

"Initial Notification of Threat Assessment" – an initial administrative determination by TSA that an individual poses a security threat warranting denial of the authorization for which the individual is applying.

"Secretary of State" – Illinois Secretary of State.

"Notification of No Security Threat" – an administrative determination by TSA that an individual does not pose a security threat warranting denial of the authorization for which the individual has successfully passed the Security Threat Assessment performed by TSA and is eligible to apply for a Hazardous Material Endorsement.

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"Rescind Order" – a removal by formal action to annul or void a cancellation or denial of a Commercial Driver's License.

"Threat Assessment Fee" – the fee required to pay for the cost of TSA adjudicating security threat assessments, appeals, and waivers under 49 CFR 1572.

"Transportation Security Administration" or "TSA" – a division of the Department of Homeland Security to administer provisions of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA Patriot Act); Public Law 107-56, October 25, 2001, 115 Stat. 272.

"Vendor" – an authorized fingerprint company approved by the Illinois State Police (ISP) who will transmit fingerprint data to ISP to be forwarded to the Federal Bureau of Investigation (FBI) for a security threat assessment.

b) The Secretary of State must notify a holder of a HME at least 60 days, as currently required by 49 CFR 1572.13, before the expiration date of the endorsement that the applicant must initiate a security threat assessment from the TSA as soon as possible, but no later than 30 days before the expiration of the applicant's endorsement, and that the applicant's endorsement cannot be renewed if the TSA has not issued to the Secretary of State a Notification of No Security Threat. The Secretary of State must require that a HME be renewed no more than five years after issuance.

c)b) In order for the Secretary of State to issue a HME, all applicants must successfully comply with the following:

- 1) possess a valid and properly classified driver's license with a CIP or a CDL issued by the Secretary of State;
- 2) submit the TSA application and a \$34 threat assessment fee to the authorized Secretary of State employee indicating he/she intends to apply for the TSA fingerprint-based criminal history record check;
- 3) pass a written test administered by the Secretary of State on the transporting of hazardous materials;

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- 4) submit his/her fingerprints and pay all fees for taking and processing of the fingerprints to an authorized vendor who will transmit fingerprint data to ISP to be forwarded to the FBI for a fingerprint-based criminal history background record check for a threat assessment;
 - 5) pay all related application and fingerprinting fees as established by 49 CFR 1572, including, but not limited to, the amounts established by the FBI and the TSA;
 - 6) affirm under penalty of perjury that he/she has not made a false statement or knowingly concealed a material fact in any application for the HME.
- d)e) Upon receipt of Notification of No Security Threat from TSA on an applicanta driver that does not currently hold a HME on his/her CDL, the Secretary of State shall place a tag on the driving record and notify the applicant in writing of the Notification of No Security Threat from TSA and direct the applicant to return to a driver license facility to complete the requirements for the issuance of a HME.
- e)d) Upon receipt of an Initial or Final Notification of Threat Assessment from TSA on an applicanta driver that does not currently hold a HME on his/her CDL, the Secretary of State shall place a tag on the driving record of the applicant indicating he/she is not eligible for a HME. Correspondence notifying the applicant of the failed threat assessment shall be sent by TSA directly to the applicant, along with information regarding the applicant's right to due process.
- f)e) Upon receipt of Notification of No Security Threat from TSA on an applicanta driver that currently holds a CDL with a HME, the Secretary of State shall place a tag on the driving record and notify the applicant in writing of the Notification of No Security Threat from TSA and direct the applicant to return to a driver license facility to complete the requirements to renew or transfer from another state his/her CDL with a HME.
- g)f) Upon receipt of an Initial or Final Notification of Threat Assessment from TSA on an applicanta driver that currently holds a CDL with a HME, the Secretary of State shall place a tag on the driving record and send written notice to the applicantdriver explaining that he/she has failed the Threat Assessment and, therefore, must appear at a driver license facility to have the HME removed from his/her CDL. The applicantholder will be given at least 5 days, but no more than 1530 days, from the date of the notice, to appear at a driver license facility and

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have the HME removed from his/her CDL. A corrected CDL will then be issued without the HME at no charge to the driver.

- ~~h)~~g) Refusal or neglect of ~~an applicant~~ ~~driver~~ to have the HME removed and obtain a corrected CDL, pursuant to subsection (g) of this Section, shall result in the cancellation of the driver's CDL pursuant to 625 ILCS 5/6-201(a)(6) and 6-207. ~~An applicant~~~~A driver~~ whose CDL was cancelled may request an administrative hearing to contest the cancellation. The scope of the hearing shall be limited to the reason for the cancellation and shall not address the Threat Assessment conducted by TSA.
- ~~i)~~h) If, after a driver's CDL has been cancelled pursuant to subsection (~~hg~~), for failing to have the HME removed from the license after the SOS received an Initial or Final Notification of Threat Assessment from TSA as set forth in subsection (g), the Secretary receives a Notification of No Security Threat from TSA on the driver, an order rescinding the cancellation shall be entered and the driver's CDL and the HME will be valid.
- ~~j)~~i) ~~An applicant~~~~A driver~~ who obtains a corrected CDL shall be deemed to be in compliance with the Secretary of State's request and shall be allowed to retain his/her CDL driving privileges.
- ~~k)~~j) If the Secretary of State receives a Notification of No Security Threat after a driver has previously been deemed a Security Threat by TSA and has had the HME removed from his/her CDL in compliance with subsection (~~gf~~), the Secretary of State shall send written notice to the driver that he/she is now eligible to have the HME added back to his/her CDL. The written notice shall advise the driver that he/she may visit a driver license facility to have a corrected CDL issued reflecting the HME at no cost to the driver.
- ~~l)~~k) Effective January 31, 2005, the SOS shall not issue a new HME in compliance with subsection (~~de~~) until the Secretary of State has received a Notification of No Security Threat from TSA.
- ~~m)~~l) Effective March 31, 2005, ~~an applicant~~ ~~driver~~ who possesses a CDL with a HME and who will be applying to renew his/her CDL-HME after May 31, 2005 may complete the TSA application, pay all associated fees and submit his/her fingerprints to an authorized vendor. Effective May 31, 2005, the Secretary of State shall not renew or transfer from another state a HME in compliance with subsection (~~fe~~) until the Secretary of State has received a Notification of No

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Security Threat from TSA. However, the Secretary of State may extend the expiration date of the time for 90 days if TSA has not provided a Determination of No Security Threat or a Final Determination of Threat Assessment before the expiration date of the HME. Any additional extension must be approved in advance by the Director of the Department of Homeland Security.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Cancellation, Revocation or Suspension of Licenses or Permits
- 2) Code Citation: 92 Ill. Adm. Code 1040
- 3) Section Number: 1040.70 Proposed Action: Amendment
- 4) Statutory Authority: 625 ILCS 5/2-104 and 625 ILCS 5/6-521
- 5) A Complete Description of the Subjects and Issues Involved: Definitions and requirements for the Problem Driver Pointer System. This amendment is necessary in order to come into compliance with the Federal Motor Carrier Safety Regulations.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1040.20	Amendment	30 Ill. Reg. 15917; 10/6/2006
1040.33	Amendment	30 Ill. Reg. 13846; 8/18/2006
1040.115	Amendment	30 Ill. Reg. 18089; 11/17/2006
- 11) Statement of Statewide Policy Objective: The rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Texts of the prepared amendments are posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to:

Office of the Secretary of State
Driver Services Department

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

JoAnn Wilson, Legislative Liaison
C/o Director's Office
2701 South Dirksen Parkway
Springfield IL 62723

217/785-1441

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1040
CANCELLATION, REVOCATION OR SUSPENSION
OF LICENSES OR PERMITS

Section

1040.10	Court to Forward Licenses and Reports of Convictions
1040.20	Illinois Offense Table
1040.25	Suspension or Revocation for Driving Without a Valid Driver's License
1040.29	2 or More Traffic Offenses Committed Within <u>within</u> 24 Months by a Person Under the Age of 21 Years
1040.30	3 Or More Traffic Offenses Committed Within 12 Months
1040.31	Operating a Motor Vehicle During a Period of Suspension or Revocation
1040.32	Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently
1040.33	Suspension or Revocation of Driver's Licenses/Permits for Fictitious or Unlawfully Altered Person-with-Disabilities License Plate or Parking Decal or Device or Fraudulent Person-with-Disabilities License Plate or Parking Decal or Device
1040.35	<u>Administrative Revocation for</u> Commission of an Offense Requiring Mandatory Revocation Upon Conviction, and Suspension or Revocation <u>Based</u> Upon a Local Ordinance Conviction
1040.36	Suspension for Violation of Restrictions on Driver's License
1040.37	Suspension for Violation of Restrictions on Instruction Permit
1040.38	Commission of a Traffic Offense in Another State
1040.40	Repeated Convictions or Collisions
1040.41	Suspension of Licenses for Curfew Violations
1040.42	Fleeing and Eluding
1040.43	Illegal Transportation
1040.46	Fatal Accident and Personal Injury Suspensions or Revocations
1040.48	Vehicle Emission Suspensions
1040.50	Suspension <u>or Revocation</u> of License of Commercial Vehicle Driver
1040.52	Driver Remedial Education Course
1040.55	Suspension for Driver's License Classification Violations
1040.60	Release of Information Regarding a Disposition of Court Supervision
1040.65	Offenses Occurring on Military Bases
1040.66	Invalidation of a Restricted Driving Permit
1040.70	Problem Driver Pointer System

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- 1040.80 Cancellation of Driver's License Upon Issuance of a Handicapped Identification Card
- 1040.100 Rescissions
- 1040.101 Reinstatement Fees
- 1040.102 Bankruptcy Rule for Suspensions, Cancellations, Failure to Pay and Returned Checks Actions
- 1040.105 Suspension for 5 or More Tollway Violations and/or Evasions
- 1040.107 Suspension for Violation of 625 ILCS 5/11-907, Approaching a Stationary Emergency Vehicle
- 1040.108 Suspension for Failure to Make Report of Vehicle Accident Violations
- 1040.109 Two or More Convictions for Railroad Crossing Violations
- 1040.110 Bribery
- 1040.111 Suspension for Violation of 625 ILCS 5/11-908(a-1) for Failure to Yield upon Entering a Construction or Maintenance Zone when~~When~~ Workers Are Present

AUTHORITY: Implementing Articles II and VII of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Arts. II and VII] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed September 22, 1972; amended at 3 Ill. Reg. 26, p. 282, effective June 30, 1979; amended at 5 Ill. Reg. 3533, effective April 1, 1981; amended at 6 Ill. Reg. 4239, effective April 2, 1982; codified at 6 Ill. Reg. 12674; amended at 8 Ill. Reg. 2200, effective February 1, 1984; amended at 8 Ill. Reg. 3783, effective March 13, 1984; amended at 8 Ill. Reg. 18925, effective September 25, 1984; amended at 8 Ill. Reg. 23385, effective November 21, 1984; amended at 10 Ill. Reg. 15265, effective September 4, 1986; amended at 11 Ill. Reg. 16977, effective October 1, 1987; amended at 11 Ill. Reg. 20659, effective December 8, 1987; amended at 12 Ill. Reg. 2148, effective January 11, 1988; amended at 12 Ill. Reg. 14351, effective September 1, 1988; amended at 12 Ill. Reg. 15625, effective September 15, 1988; amended at 12 Ill. Reg. 16153, effective September 15, 1988; amended at 12 Ill. Reg. 16906, effective October 1, 1988; amended at 12 Ill. Reg. 17120, effective October 1, 1988; amended at 13 Ill. Reg. 1593, effective January 23, 1989; amended at 13 Ill. Reg. 5162, effective April 1, 1989; amended at 13 Ill. Reg. 7802, effective May 15, 1989; amended at 13 Ill. Reg. 8659, effective June 2, 1989; amended at 13 Ill. Reg. 17087, effective October 16, 1989; amended at 13 Ill. Reg. 20127, effective December 8, 1989; amended at 14 Ill. Reg. 2944, effective February 7, 1990; amended at 14 Ill. Reg. 3664, effective February 7, 1990; amended at 14 Ill. Reg. 5178, effective April 1, 1990; amended at 14 Ill. Reg. 5560, effective March 22, 1990; amended at 14 Ill. Reg. 14177, effective August 21, 1990; amended at 14 Ill. Reg. 18088, effective October 22, 1990; amended at 15 Ill. Reg. 14258, effective September 24, 1991; amended at 17 Ill. Reg. 8512, effective May 27, 1993; amended at 17 Ill. Reg. 9028, effective June 2, 1993; amended at 17 Ill. Reg. 12782,

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effective July 21, 1993; amended at 18 Ill. Reg. 7447, effective May 3, 1994; amended at 18 Ill. Reg. 10853, effective June 27, 1994; amended at 18 Ill. Reg. 11644, effective July 7, 1994; amended at 18 Ill. Reg. 16443, effective October 24, 1994; amended at 20 Ill. Reg. 2558, effective January 26, 1996; amended at 21 Ill. Reg. 8398, effective June 30, 1997; amended at 21 Ill. Reg. 10985, effective July 29, 1997; amended at 21 Ill. Reg. 12249, effective August 26, 1997; amended at 21 Ill. Reg. 12609, effective August 29, 1997; amended at 22 Ill. Reg. 1438, effective January 1, 1998; amended at 22 Ill. Reg. 5083, effective February 26, 1998; amended at 22 Ill. Reg. 13834, effective July 10, 1998; amended at 24 Ill. Reg. 1655, effective January 11, 2000; emergency amendment at 24 Ill. Reg. 8398, effective June 2, 2000, for a maximum of 150 days; emergency expired October 29, 2000; emergency amendment at 24 Ill. Reg. 16096, effective October 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16689, effective October 30, 2000; amended at 25 Ill. Reg. 2723, effective January 31, 2001; amended at 25 Ill. Reg. 6402, effective April 26, 2001; emergency amendment at 26 Ill. Reg. 2044, effective February 1, 2002, for a maximum of 150 days; emergency expired June 30, 2002; emergency amendment at 26 Ill. Reg. 3753, effective February 21, 2002, for a maximum of 150 days; emergency expired July 20, 2002; amended at 26 Ill. Reg. 12373, effective July 25, 2002; amended at 26 Ill. Reg. 13684, effective August 28, 2002; amended at 29 Ill. Reg. 2441, effective January 25, 2005; amended at 29 Ill. Reg. 13892, effective September 1, 2005; amended at 29 Ill. Reg. 15968, effective October 7, 2005; amended at 30 Ill. Reg. 1896, effective January 26, 2006; amended at 30 Ill. Reg. 2557, effective February 10, 2006; amended at 30 Ill. Reg. 11299, effective June 12, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 1040.70 Problem Driver Pointer System

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

"Applicant" – person applying for an Illinois driver's license.

"Cancellation" – the annulment or termination by formal action of the Secretary of a person's driver's license because the licensee is no longer entitled to such license since his/her driving privileges are withdrawn in another state as provided for in Section 1040.20 of this Part, and as defined in Section 1-110 of the Illinois Vehicle Code [625 ILCS 5/1-110].

"Clean File" – a file that a state submits to the National Driver Register (NDR) containing all appropriate records from the state as of a given date, which will replace all prior records on the NDR database.

"Clearance Letter" – any document received from another state dated within 30 days of the current process date, and verifying that an individual has had his/her

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driving privileges restored in that state.

"Conviction" – a final adjudication of guilty by a court of competent jurisdiction either after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default as defined in Section 6-100 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-100].

"Delayed Search" – the planned, repeated checking of inquiries submitted to the NDR for a period of 104 days against any possible data changes that may affect the original inquiry.

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

"Driver History Record" – a standardized form of limited information obtained from the SOR when an SOI makes a history request.

"Driver Status" – the current standing of a driver's license in the SOR, indicating whether the license is currently valid, revoked, suspended or withdrawn, that is supplied via computer automation when an SOI makes an inquiry to an SOR.

"National Driver Register" or "NDR" – a computerized database of files on drivers maintained by the U.S. Department of Transportation National Highway Safety Administration.

"Open or Pending Revocation(s)" – revocation(s) which is still in effect or which has been entered on the record to become effective on a specified future date.

"Problem Driver Pointer System" or "PDPS" – a pointer file consisting of an index of problem drivers (as determined by adverse driver's license actions) that is maintained by a driver's home state (SOR) and is accessed by other states (SOI) to determine a person's eligibility to apply for a driver's license.

"Revocation" – the termination by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways which termination shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the Secretary after expiration of at least one year after the date of revocation as provided for in Section 1040.20 of this Part, and as defined in Section 1-176 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/1-176].

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Secretary" – Illinois Secretary of State.

"State of Inquiry" or "(SOI)" – a licensing jurisdiction that originated the inquiry.

"State of Record" or "(SOR)" – a licensing jurisdiction that originally took action against a problem driver and reported that driver to the NDR.

"Suspension" – the temporary withdrawal by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary as provided for in Section 1040.20 of this Part, and as defined in Section 1-204 of the Illinois Vehicle Code [625 ILCS 5/1-204].

"Withdrawal" – the absence of valid driving privileges in a state due to sanctions taken against those privileges.

- b) Before issuing or renewing a license for every non-CDL applicant, the Department shall make a request through PDPS and CDLIS to determine the applicant's eligibility. PDPS information is made available to this Department to determine eligibility for license issuance and any post-issuance sanction, if applicable. When a probable match is a result of an inquiry search, the system points the inquiring licensing jurisdiction (SOI) to the licensing jurisdiction that recorded the adverse action against the driver in question (SOR).
- c) Before issuing a commercial driver's license (CDL), the Department shall make a request through both PDPS and CDLIS for driving records from every state in which the applicant has been licensed in the last 10 years. The Secretary shall perform the record checks no earlier than 24 hours prior to issuance if the license is to be issued to a driver who does not currently possess a valid CDL from the State of Illinois and no earlier than 10 days prior to issuance for all other drivers. When a probable match is a result of an inquiry search, the system points the inquiring licensing jurisdiction (SOI) to the licensing jurisdiction that recorded the adverse action against the driver in question (SOR).
- d)e) If the applicant~~person~~ has been denied issuance of an Illinois license, certain information shall be required from the other state and/or applicant, and upon review of the information, a determination of the applicant's individual's eligibility for licensing in the State of Illinois will be made.

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- e)Ⓓ) The Department will receive a daily report which will identify selected applicants issued an Illinois license to determine if the new applicant is eligible to retain his/her Illinois license or privilege. The Department shall then verify the validity of the applicant's driving status by contacting the SOR/NDR.
- f)Ⓔ) If it is determined from the review that the applicant is not eligible for an Illinois license due to his/her driving privileges being withdrawn in another state, the Department shall cancel the driving privileges pursuant to Section 6-201(a)(5) of the Illinois Vehicle Code [625 ILCS 5/6-201(a)(5)].
- g)Ⓕ) If an applicant~~a person~~ has falsified information on his/her application for a driver's license, he/she shall be suspended pursuant to Section 6-206(a)(9) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(9)] for 12 months if it is his/her first offense. If it is his/her second offense or if the driving record contains an open or pending revocation(s), his/her driving privileges shall be revoked pursuant to Section 6-206(a)(9) of the Illinois Vehicle Code.
- h)Ⓖ) After cancellation, full driving privileges shall not be restored until after restoration in the other state and a clearance letter or verification from that state is received and processed by the Department.
- i)Ⓗ) If a person's driving privileges have been suspended, his/her driving privileges shall be restored at the termination of the suspension and upon acceptance of the required reinstatement fee as provided for in Section 6-118 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-118]. If a person's driving privileges have been revoked, he/she is eligible to be considered for reinstatement of his/her driving privileges after the successful completion of all necessary requirements of the Department pursuant to Section 2-110 of the Illinois Vehicle Code [625 ILCS 5/2-110].
- j) Upon receipt of a request from the driver licensing authority of another state for the driving record of a person applying for a CDL who is currently or previously licensed by Illinois, the Department shall provide the information to the requesting state within 30 days.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision
- 2) Code Citation: 23 Ill. Adm. Code 1
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1.10	Amendment
1.85	Amendment
1.705	New Section
1.APPENDIX A	Amendment
1.APPENDIX B	Repeal
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking affects three aspects of Part 1, as follows:

Sections 1.10 and 1.85 are being amended in response to Public Act 94-875, which made several changes in Section 2-3.25d of the School Code concerning school districts' preparation of revised school and district improvement plans and restructuring plans. In particular, none of these plans will now require approval by the State Superintendent of Education, and the entire discussion of *district* restructuring plans has been deleted from the law in order to conform to the No Child Left Behind Act (NCLB). However, local development of plans is now required to involve "outside experts", necessitating clarification in the rules as to how this requirement must be met.

In Illinois, districts and schools that have reached a status where revision of the relevant improvement plan is required have a nominal choice between using the services provided by school support teams known as Regional Systems of Support (RESPROs) or receiving certain funds instead. However, the option of receiving these funds is only available where the entitlement would equal at least \$50,000, so it is generally not truly viable. Consequently all affected Illinois districts have been utilizing the RESPROs. NCLB specifies the types of qualifications to be held by the individuals who serve on these teams ("persons knowledgeable about scientifically based research and practice on teaching and learning and about successful schoolwide projects, school reform, and improving educational opportunities for low-achieving students, including (i) highly qualified or distinguished teachers or principals; (ii) pupil services personnel; (iii) parents; (iv) representatives of institutions of higher education; (v) representatives of regional educational laboratories or comprehensive regional technical assistance centers; (vi) representatives of outside consultant groups; or (vii) other individuals as the State educational agency, in consultation with the local educational agency, may determine

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appropriate"). Section 1.85(c) relies on these qualifications in specifying who will be considered "outside experts" for this purpose.

A second aspect of the amendments relates to the qualifications required for administrative and supervisory positions. These have been displayed in Appendix B to Part 1 for quite a number of years, and that Appendix was last updated in 1990. Many of the certificates listed are now out of date, because most pre-existing types of administrative certificates have been exchanged for the Type 75 under legislation enacted in 2002. In addition, it is necessary to ensure that the titles given to administrative functions on the Teacher Service Record correspond closely enough to the rules that the appropriate codes can be chosen when data are entered. The wording of both forms of documentation is being reconciled so they will match well from now on.

Finally, the amendment to Appendix A will liberalize somewhat the applicability of the provisional vocational certificate by allowing its use in Grades 9 and 10 by persons not also employed in Grade 11 or Grade 12. This change is designed to assist with staffing concerns for approved programs of career and technical education.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (S-493)

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Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1

PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section

- 1.10 Public School Accountability Framework
- 1.20 Operational Requirements
- 1.30 State Assessment
- 1.40 Adequate Yearly Progress
- 1.50 Calculation of Participation Rate
- 1.60 Subgroups of Students; Inclusion of Relevant Scores
- 1.70 Additional Indicators for Adequate Yearly Progress
- 1.75 Student Information System
- 1.77 Educator Certification System
- 1.80 Academic Early Warning and Watch Status
- 1.85 School and District Improvement Plans; Restructuring Plans
- 1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency Under Title III
- 1.90 System of Rewards and Recognition – The Illinois Honor Roll
- 1.95 Appeals Procedure
- 1.100 Waiver and Modification of State Board Rules and School Code Mandates

SUBPART B: SCHOOL GOVERNANCE

Section

- 1.210 Powers and Duties (Repealed)
- 1.220 Duties of Superintendent (Repealed)
- 1.230 Board of Education and the School Code (Repealed)
- 1.240 Equal Opportunities for all Students
- 1.242 Temporary Exclusion for Failure to Meet Minimum Academic or Attendance Standards
- 1.245 Waiver of School Fees
- 1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)
- 1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)

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- 1.270 Book and Material Selection (Repealed)
- 1.280 Discipline
- 1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
- 1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section

- 1.310 Administrative Responsibilities
- 1.320 Evaluation of Certified Staff in Contractual Continued Service
- 1.330 Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section

- 1.410 Determination of the Instructional Program
- 1.420 Basic Standards
- 1.430 Additional Criteria for Elementary Schools
- 1.440 Additional Criteria for High Schools
- 1.445 Required Course Substitute
- 1.450 Special Programs
- 1.460 Credit Earned Through Proficiency Examinations
- 1.462 Uniform Annual Consumer Education Proficiency Test
- 1.465 Ethnic School Foreign Language Credit and Program Approval
- 1.470 Adult and Continuing Education
- 1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section

- 1.510 Transportation
- 1.515 Training of School Bus Driver Instructors
- 1.520 School Food Services (Repealed)
- 1.530 Health Services
- 1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

Section

- 1.610 Personnel Required to be Qualified

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- 1.620 Accreditation of Staff (Repealed)
- 1.630 Noncertificated Personnel
- 1.640 Requirements for Different Certificates (Repealed)
- 1.650 Transcripts of Credits
- 1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section

- 1.705 [Requirements for Supervisory and Administrative Staff](#) ~~Minimum Requirements for Teachers (Repealed)~~
 - 1.710 Requirements for Elementary Teachers
 - 1.720 Requirements for Teachers of Middle Grades
 - 1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above through June 30, 2004
 - 1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
 - 1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
 - 1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
 - 1.740 Standards for Reading through June 30, 2004
 - 1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
 - 1.750 Standards for Media Services through June 30, 2004
 - 1.755 Requirements for Library Information Specialists Beginning July 1, 2004
 - 1.760 Standards for Pupil Personnel Services
 - 1.762 Supervision of Speech-Language Pathology Assistants
 - 1.770 Standards for Special Education Personnel
 - 1.780 Standards for Teachers in Bilingual Education Programs
 - 1.781 Requirements for Bilingual Education Teachers in Grades K-12
 - 1.782 Requirements for Teachers of English as a Second Language in Grades K-12
 - 1.790 Substitute Teacher
-
- 1.APPENDIX A Professional Staff Certification
 - 1.APPENDIX B Certification Quick Reference Chart [\(Repealed\)](#)
 - 1.APPENDIX C Glossary of Terms (Repealed)
 - 1.APPENDIX D State Goals for Learning
 - 1.APPENDIX E Evaluation Criteria – Student Performance and School Improvement Determination (Repealed)
 - 1.APPENDIX F Criteria for Determination – Student Performance and School Improvement (Repealed)

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1. APPENDIX G Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, and 27-23.3 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, and 2-3.6].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006; amended at 30 Ill. Reg. 16338, effective September 26, 2006; amended at 30 Ill. Reg. 17416, effective October 23, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: RECOGNITION REQUIREMENTS

Section 1.10 Public School Accountability Framework

- a) Section 27-1 of the School Code [105 ILCS 5/27-1] establishes the primary purpose of schooling as the transmission of knowledge and culture in certain fundamental learning areas and requires the State Board of Education to define the knowledge and skills which the State expects students to master. These "State

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Goals for Learning" are set forth in Appendix D to this Part and amplified by the "Illinois Learning Standards", also set forth in that Appendix D. Further, Section 2-3.25 of the School Code [105 ILCS 5/2-3.25] requires that the State Board of Education establish general operational recognition standards for public schools, and Section 2-3.25a of the School Code [105 ILCS 5/2-3.25a] requires that the Board develop recognition standards for student performance and school improvement.

- ~~b)a) Each school district shall ensure that each school makes available to all students instruction in the six fundamental learning areas, i.e., the language arts, mathematics, the biological and physical sciences, the social sciences, the fine arts, and physical development and health.~~
- ~~b) Each school district is required to establish local learning objectives that are consistent with the primary purpose of schooling, assessment systems for measuring students' progress in the fundamental learning areas, and reporting systems for informing the community and the State of assessment results, all of which are subject to approval by the State Board of Education (Sections 2-3.63 and 27-1 of the School Code [105 ILCS 5/2-3.63 and 27-1]).~~
- ~~1) Local learning objectives will be approved if they:~~
- ~~A) are consistent with the primary purpose of schooling as defined in Section 27-1 of the School Code; and~~
- ~~B) when taken together, are at least as comprehensive as the State Goals for Learning and the Illinois Learning Standards.~~
- ~~2) Assessment systems will be approved if they:~~
- ~~A) are designed to yield information about the extent to which all students in at least the grade levels chosen by the district pursuant to Section 2-3.63 of the School Code are achieving in the fundamental learning areas; and~~
- ~~B) include reasonable accommodations or alternative tests or procedures for students with disabilities or limited English proficiency.~~
- ~~3) Reporting systems will be approved if they include presentation and~~

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~~interpretation of student achievement information:~~

- ~~A) at regular school board meetings;~~
- ~~B) in newspapers of general circulation and other news media serving the area in which the school district is located, or through other means of mass communication such as posting on the district's website; and~~
- ~~C) in communications with parents of the district's pupils, which shall take into account the needs of parents with limited English proficiency.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1.85 School and District Improvement Plans; Restructuring Plans

Section 2-3.25d of the School Code requires each district to revise the school improvement plans of any of its schools that are placed on academic early warning or academic watch status and to revise the district's improvement plan if it is placed on academic early warning or academic watch status. Similarly, restructuring plans are required for schools ~~and districts~~ that remain on academic watch status after a fifth annual calculation. As used in this Section, "NCLB" refers to Public Law 107-110, the No Child Left Behind Act of 2001 (20 USC 6301 et seq.).

- a) A revised school improvement plan shall be submitted to the local school board (and to the local school council in a district operating under Article 34 of the School Code), ~~and to the State Superintendent of Education with the approval of the local board if required under Section 2-3.25d of the School Code~~, no later than three months after the district's receipt of notification regarding the school's status. During the 45-day period following its submission to the local board and prior to the board's final approval, each plan shall undergo a peer review process designed by the district.
 - 1) In school districts with a population of 500,000 or fewer, revised school improvement plans shall be required to cover the two school years following the assessment necessitating the plan and to:
 - A) incorporate strategies based on scientifically based research and an analysis of State and local assessment data and other information that will strengthen the core academic subjects in the school and

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address the specific academic areas in which the school's performance has been deficient (NCLB, Section 1116(b)(3)(A)(i));

- B) include information about the extent to which all students in the grade levels chosen by the district pursuant to Section 2-3.63 of the School Code are achieving in the fundamental learning areas;
- C) adopt policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all subgroups enrolled in the school will meet the State's proficient level of achievement not later than the end of the 2013-14 school year, including:
 - i) specific, measurable steps to be taken,
 - ii) a timeline for these activities, and
 - iii) a budget for these activities (NCLB, Section 1116(b)(3)(A)(ii));
- D) include professional development activities for at least the staff providing services in the academic areas in which the school's performance has been deficient (NCLB, Section 1116(b)(3)(A)(iii));
- E) incorporate a teacher mentoring program (NCLB, Section 1116(b)(3)(A)(x));
- F) establish specific annual, measurable objectives for continuous and substantial progress by each subgroup of students enrolled in the school that will ensure that all such subgroups will make adequate yearly progress and meet the State's proficient level of achievement not later than the 2013-14 school year (NCLB, Section 1116(b)(3)(v));
- G) describe how the school will provide written notice about the identification to parents of each student enrolled in each school, in a format and, to the extent practicable, in a language that the parents can understand (NCLB 1116(b)(3)(A)(vi));

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- H) specify the responsibilities of the school and the school board under the plan, including the internal and external technical assistance to be provided by the district, technical assistance requested of ISBE, and, if applicable, the district's fiscal responsibilities under Section 1120A of NCLB (NCLB, Section 1116(b)(3)(A)(vii));
 - I) include strategies for promoting effective parental involvement in the school (NCLB, Section 1116(b)(3)(A)(viii));
 - J) incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year (NCLB, Section 1116(b)(3)(A)(ix)); and
 - K) include a process for monitoring progress and revising the plan as needed.
- 2) In school districts operating under Article 34 of the School Code, school improvement plans shall comply with the requirements set forth in Section 34-2.4 of the School Code and, if applicable, the requirements set forth in Section 1116 of NCLB.
 - 3) Each newly established school shall be required to have a school improvement plan in place by the beginning of its second year of operation. School improvement plans for new schools shall conform to the requirements of subsection (a)(1) or (a)(2) of this Section, as applicable.
- b) A new or revised district improvement plan shall be submitted to the local school board, ~~and to the State Superintendent of Education with the approval of the local school board if required under Section 2-3.25d of the School Code,~~ no later than three months after the district's receipt of notification regarding its status. The district improvement plan shall be required to cover the two school years following the assessment necessitating the plan and to:
 - 1) incorporate scientifically based research strategies that strengthen the core academic program in schools served by the district (NCLB, Section 1116(c)(7)(A)(i));

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- 2) identify actions that have the greatest likelihood of improving the achievement of participating children in meeting the State's student academic achievement standards (NCLB, Section 1116(c)(7)(A)(ii));
 - 3) address the professional development needs of the instructional staff serving the district (NCLB, Section (c)(7)(A)(iii));
 - 4) include specific measurable achievement goals and targets for each subgroup of students, consistent with adequate yearly progress (NCLB, Section 1116(c)(7)(A)(iv));
 - 5) address the fundamental teaching and learning needs in the schools of the district and the specific academic problems of low-achieving students, including a determination of why the district's prior plan failed to bring about increased student academic achievement (NCLB, Section 1116(c)(7)(A)(v));
 - 6) incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year (NCLB, Section 1116(c)(7)(A)(vi));
 - 7) specify any requests to ISBE for technical assistance related to the plan and the district's fiscal responsibilities, if applicable, under Section 1120A of NCLB (NCLB, Section 1116(c)(7)(A)(vii));
 - 8) include strategies for promoting effective parental involvement in the district's schools (NCLB, Section 1116(c)(7)(A)(viii)); and
 - 9) include a process for monitoring progress and revising the plan as needed.
- c) For purposes of compliance with Section 2-3.25d of the School Code [105 ILCS 5/2-3.25d], the requirement for collaboration with "outside experts" in the development of revised school and district improvement plans shall be met through the involvement of a school support team as defined in NCLB, Section 1117(a)(5), or by involving one or more other individuals who would qualify as members of a school support team pursuant to that definition.
- d) Each revised school or district improvement plan shall be submitted to the State Superintendent on the business day next following the date of its approval by the local board, using the electronic format made available for this purpose. The

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~~State Superintendent shall verify that each plan contains~~When Section 2-3.25d of the School Code requires that either a school or district improvement plan be approved by the State Superintendent of Education, the State Superintendent shall ~~approve all plans containing~~ each of the elements set forth in subsection (a) or subsection (b) of this Section, as applicable. ~~A plan that is not approved must be revised and resubmitted as soon as reasonably possible, but in no event later than 45 days after its disapproval.~~

- e)~~d)~~ Section 2-3.25d of the School Code requires the development of a restructuring plan for a school ~~or a district~~ that remains on academic watch status after a fifth annual calculation ~~and approval of that plan by the State Superintendent of Education~~. Each required restructuring plan shall be ~~approved by~~ submitted to the State Superintendent of Education with the approval of the local school board no later than six months after the district's receipt of notification regarding its status.
- 1)~~4)~~ Each school restructuring plan shall indicate that the district is undertaking one or more of the following actions in the affected school:
- 1)~~A)~~ reopening the school as a public charter school, consistent with Article 27A of the School Code [105 ILCS 5/Art. 27A];
 - 2)~~B)~~ replacing all or most of the school staff, which may include the principal, who are relevant to the school's inability to make adequate yearly progress;
 - 3)~~C)~~ entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the school as a public school;
 - 4)~~D)~~ implementing any other major restructuring of the school's governance that makes fundamental reform in:
 - A)~~i)~~ governance and management, and/or
 - B)~~ii)~~ financing and material resources, and/or
 - C)~~iii)~~ staffing.
- 2) ~~Each district restructuring plan shall indicate that the district is undertaking one or more of the following actions:~~

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- ~~A) implementing professional development for all relevant staff;~~
 - ~~B) replacing district personnel who are relevant to its inability to make adequate yearly progress;~~
 - ~~C) seeking to reorganize the district;~~
 - ~~D) requesting ISBE to appoint an Independent Authority pursuant to Section 2-3.25f of the School Code;~~
 - ~~E) implementing any other major restructuring of the district's governance that makes fundamental reform in at least one of the areas listed in subsection (d)(1)(D) of this Section.~~
- 3) ~~Each school or district restructuring plan shall be reviewed by staff of the State Board of Education to determine whether the plan demonstrates that:~~
- ~~A) the proposed changes are based on data, documented needs and characteristics of the students served, and/or scientifically based practices that are appropriate in light of the school's or district's inability to make adequate yearly progress; and~~
 - ~~B) the proposed changes are sufficient in extent or scope to promote increased achievement for all the students in the school or district and have substantial promise of enabling the school or district to make adequate yearly progress.~~
- 4) ~~A plan that is not approved must be revised and resubmitted as soon as reasonably possible, but in no event later than 45 days after its disapproval.~~
- f)e) Failure by a school district to develop, submit, revise, or implement, ~~or maintain approval of~~ its school and district improvement plans or school restructuring plans as required by Section 2-3.25d of the School Code shall affect the district's recognition status (see Section 1.20 of this Part).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART G: STAFF QUALIFICATIONS

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Section 1.705 Requirements for Supervisory and Administrative Staff ~~Minimum Requirements for Teachers (Repealed)~~

- a) Each district superintendent shall hold an administrative certificate with a Superintendent's endorsement.
- b) Each assistant superintendent, principal, or assistant principal shall hold an administrative certificate with a General Administrative or Superintendent's endorsement, except that a head teacher serving in place of a principal as permitted by Section 10-21.4a of the School Code [105 ILCS 5/10-21.4a] shall hold a teaching certificate endorsed for supervision.
- c) Each general administrator (e.g., director, assistant director, coordinator, administrative assistant, or general supervisor) in general education shall hold an administrative certificate with a General Supervisory, General Administrative, or Superintendent's endorsement.
- d) Each head of a general education department or supervisor for a specific subject shall hold either:
 - 1) an administrative certificate with a General Supervisory, General Administrative, or Superintendent's endorsement; or
 - 2) a teaching certificate endorsed for supervision in the area supervised.
- e) Each supervisory dean shall hold an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, or Superintendent's endorsement.
- f) Each dean of students shall hold:
 - 1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, or Superintendent's endorsement; or
 - 2) a teaching certificate (endorsed for supervision if the holder disciplines or suspends students); or

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- 3) a school service personnel certificate endorsed for any field other than school nursing (and for supervision if the holder disciplines or suspends students).
- g) Each special education director or assistant director shall meet the requirements of 23 Ill. Adm. Code 226.800(h)(2) and hold an administrative certificate endorsed for "Director of Special Education".
- h) Each special education supervisor shall meet the requirements of 23 Ill. Adm. Code 226.800(h)(2) and hold either:
 - 1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, or Superintendent's endorsement and teaching qualifications in each area supervised; or
 - 2) a teaching certificate endorsed for each area supervised and for supervision.
- i) Each supervisor of more than one school service personnel area shall hold either:
 - 1) an administrative certificate and a General Administrative or Superintendent's endorsement; or
 - 2) a school service personnel certificate endorsed for supervision in each field supervised.
- j) Each supervisor of one school service personnel area shall hold:
 - 1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, or Superintendent's endorsement; or
 - 2) a school service personnel certificate endorsed for the field supervised and for supervision; or
 - 3) a teaching certificate endorsed for speech-language pathology and for supervision (if applicable).
- k) Each director of an area vocational center and each director or supervisor of more than one field in career and technical education (including regional system

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directors) shall hold an administrative certificate with a General Administrative or Superintendent's endorsement and have teaching qualifications in one of the five occupational areas and 2,000 hours of work experience outside the field of education.

- l) Each supervisor of one field in career and technical education shall hold either:
- 1) an administrative certificate with a General Supervisory, General Administrative, or Superintendent's endorsement and teaching qualifications in one field of career and technical education, including 2,000 hours of work experience in the specific field outside of education;
or
 - 2) teaching qualifications in the specific field supervised, including 2,000 hours of work experience in the specific field outside of education, and a supervisory endorsement.
- m) Each administrator in a bilingual education program shall meet the applicable requirements of 23 Ill. Adm. Code 228.30(c).
- n) Each chief school business official shall hold an administrative certificate and a Chief School Business Official's endorsement.

(Source: Old Section repealed at 28 Ill. Reg. 8486, effective June 1, 2004; new Section adopted at 31 Ill. Reg. _____, effective _____)

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Section 1.APPENDIX A Professional Staff Certification

Types of Certificates

The following list of certificates identifies those certificates which, if properly registered and renewed, are valid for teaching, administering or performing the specified service in Illinois public schools.

Code	Type of Certificate	Grade Level Valid For	Still Issued	Years Valid	School Code or Ill. Adm. Code
02	Early Childhood	to age 6 excluding Kdg.	No	4	21-2.1
03	Standard Elementary	K-9	No	4	21-3
03	Initial Elementary	K-9	Yes	4 years of teaching	21-1a; 21-2; 21-3
03	Standard Elementary	K-9	Yes	5	21-1a; 21-2; 21-3
03	Master Elementary	K-9	Yes	10	21-1a; 21-2; 21-3
04	Early Childhood	Birth-3	No	4	21-2.1
04	Initial Early Childhood	Generally Birth-Grade 3 (as endorsed)	Yes	4 years of teaching	21-1a; 21-2; 21-2.1
04	Standard Early Childhood	Generally Birth-Grade 3 (as endorsed)	Yes	5	21-1a; 21-2; 21-2.1
04	Master Early Childhood	Generally Birth-Grade 3 (as endorsed)	Yes	10	21-1a; 21-2; 21-2.1
05	Provisional Early Childhood	Birth-3	Yes	2	21-10

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06	Kindergarten-Primary	K-3	No	4	
09	Standard High School	6-12*	No	4	21-5
09	Initial Secondary	6-12	Yes	4 years of teaching	21-1a; 21-2; 21-5
09	Standard Secondary	6-12	Yes	5	21-1a; 21-2; 21-5
09	Master Secondary	6-12	Yes	10	21-1a; 21-2; 21-5
10	Standard Special	K-12 Field Endorsed	No	4	21-4
10	Initial Special K-12	K-12 Field Endorsed	Yes	4 years of teaching	21-1a; 21-2; 21-4
10	Standard Special K-12	K-12 Field Endorsed	Yes	5	21-1a; 21-2; 21-4
10	Master Special K-12	K-12 Field Endorsed	Yes	10	21-1a; 21-2; 21-4
10	Initial Special Preschool-Age 21	Generally Birth- Age 21	Yes	4 years of teaching	21-1a; 21-2; 21-4
10	Standard Special Preschool-Age 21	Generally Birth- Age 21	Yes	5	21-1a; 21-2; 21-4
10	Master Special Preschool-Age 21	Generally Birth- Age 21	Yes	10	21-1a; 21-2; 21-4
11	Vocational	7-12 Field Endorsed	No	4	
14	Junior College	9-14 Field Endorsed	No	4	
17	Special Exc. Children	K-14 Field Endorsed	No		
20	Special	11-12 Electives 10 hrs. per Week	No	4	

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21	General	Adult Field Endorsed	No		(21-11 repealed)
22	Alternative Elementary	K-9	No	4	21-5b
22	Initial Alternative Elementary	K-9	Yes	4	21-5b
22	Standard Alternative Elementary	K-9	No	4	21-5b
23	Provisional Alternative Elementary	K-9	Yes	1	21-5b; 21- 5c
24	Alternative Secondary	6-12	No	4	21-5b
24	Initial Alternative Secondary	6-12	Yes	4	21-5b
24	Standard Alternative Secondary	6-12	No	4	21-5b
25	Provisional Alternative Secondary	6-12	Yes	1	21-5b; 21- 5c
26	Provisional Alternative Administrative	K-12	Yes	1	21-5d
27	Provisional Alternative Special	K-12 Field Endorsed	Yes	1	21-5b; 21- 5c
28	Alternative Special	K-12 Field Endorsed	No	4	
28	Initial Alternative Special	K-12 Field Endorsed	Yes	4	21-5b
29	Transitional Bilingual	K-12 Language Endorsed	Yes	6	14C-8
30	Provisional Elementary	K-9	Yes	2	21-10
31	Provisional Secondary	6-12	Yes	2	21-10

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32	Provisional Foreign Lang.	K-14 Language Named	No	4	
33	Provisional Special	K-12 Field Endorsed	Yes	2	21-10
34	Provisional Vocational	K-12 Field Endorsed	No		21-10
34	Provisional Vocational	11-12 Field Endorsed	No		21-10
35	Provisional Vocational	7-12 Field Endorsed**	Yes		21-10
36	Temp. Prov. Vocational	11-12 Field Endorsed***	Yes	1	21-10
37	Temp. Prov. Vocational	K-12 Field Endorsed	No	1	21-10
38	Resident Teacher	K-12	No	4	21-11.3
39	Substitute-90 days	K-12 All	Yes	4	21-9
40	Part-Time Provisional	6-12	Yes	2	21-10
42	Life Elementary	1-8	No	Life	
43	Provisional Alternative Early Childhood	Birth-Grade 3	Yes	1	21-5b; 21- 5c
44	Alternative Early Childhood	Birth-Grade 3	No	4	21-5b
44	Initial Alternative Early Childhood	Birth-Grade 3	Yes	4	21-5b
45	Life Kindergarten	K-3	No	Life	
47	Life High School	6-12*	No	Life	

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48	Life Special	K-14 Field Endorsed	No	Life	
49	Life Junior College	9-14 Field Endorsed	No	Life	
50	Visiting International Teacher – Special	K-12	Yes	3	23 Ill. Adm. Code 25.92
51	Life School Librarian	K-14 Library	No	Life	
53	Visiting International Teacher – Elementary	K-6	Yes	3	23 IAC 25.92
54	Visiting International Teacher – Early Childhood	Birth-Grade 3	Yes	3	23 IAC 25.92
59	Visiting International Teacher – Secondary	6-12	Yes	3	23 IAC 25.92
60	Ltd. Supervisory	K-14 All	*No	4	
61	All-Grade Supervisory	K-14 All	*No	4	
62	Ltd. Elem. Supervisory	K-9 All Elementary	*No	4	
63	Ltd. H.S. Supervisory	6-12 All Secondary	*No	4	
70	Life General Supervisory	K-14 All	*No	Life	
71	Life Supervisory	K-14 All	*No	Life	
72	Temporary TMH	K-12 TMH	No	1	
73	School Service Personnel	K-12 Area of Service Endorsed	Yes	5 (beginning July 1, 2004)	21-25
74	Provisional School Service Personnel	K-12 Area of Service Endorsed	Yes	2	21-10

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75	Administrative	K-12 All	*Yes	5	21-7.1
76	Provisional Administrative	K-12 All	Yes	2	21-10
77	Administrative K-12	K-12	Yes	5	21-5d
78	Interim School Counselor Intern	K-12	Yes	3	23 IAC 25.227
80	Resident Teacher – Special	K-12	Yes	4	21-11.3
83	Resident Teacher – Elementary	K-9	Yes	4	21-11.3
84	Resident Teacher – Early Childhood	Birth-Grade 3	Yes	4	21-11.3
89	Resident Teacher – Secondary	6-12	Yes	4	21-11.3

* If endorsed for teaching, valid for subjects for which the individual is assignable under Section 1.710, 1.720, 1.737, 1.745, or 1.755 of this Part, or to which the individual is assigned pursuant to authorization received under 23 Ill. Adm. Code 25.464 (Short-Term Authorization for Positions Otherwise Unfilled).

** Valid in approved, reimbursable programs of career and technical education (CTE), for "skill-level" instruction in grades 11 and 12 in the field of specialization and. ~~Provided that the certificate holder is employed to teach in Grade 11 and/or Grade 12 in the field of specialization, the certificate is also valid for~~ "orientation-level" instruction in grades 9 and 10 in the field of career and technical education endorsement to which the specialization belongs. Provided that the certificate-holder is employed to teach in any of grades 9 through 12 in the field of specialization, the certificate is also valid, ~~and~~ for exploratory career and technical education courses in grades 7 and 8 in that field of endorsement.

*** Valid only in approved, reimbursable CTE programs for "skill-level" instruction in grades 11 and 12 in the field of specialization.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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Section 1.APPENDIX B Certification Quick Reference Chart (Repealed)

~~Questions concerning the appropriateness of certificates required for specific positions depend upon the job description of the position and should be referred to the Public School Approval Section, State Board of Education.~~

For This Position	These Types of Certificates Are Valid (Codes)	(Most Common)
Teachers	Certificate Currently Being Issued	Certificate No Longer Issued But Still Valid If Properly Registered
Teacher Up To 6 Years, Exclusive of Children Enrolled in Kindergarten	04, 05	02
Teacher K-5	03, 10*, 29*, 30, 33*, 34*, 75-34*, 75	06 (K-3), 32*, 42, 45 (K-3), 48*, 60, 61, 62, 70, 71
Teacher 6-9	03, 09, 10*, 29*, 30, 31, 33*, 34*, 75	11*, 32*, 47*, 48*, 60, 61, 62, 63, 70, 71
Teacher 9-12	09, 10*, 29*, 31, 33*, 34*, 75	11*, 14*, 32*, 47*, 48*, 49*, 60, 61, 63, 70, 71
Special Subject Teacher (Art, Music, P.E., Sci., etc.) K-9	03, 10*, 29*, 30, 33*, 34*, 75	32*, 42, 48*, 60, 61, 62, 70, 71, 72
Special Subject Teacher (Art, Music, P.E., Sci., etc.) 6-12	09, 10*, 29*, 31, 33*, 34*, 75	11, 32*, 47*, 48*, 60, 61, 63, 70, 71
Administrators		
Head of Dept. or Supervisor Spec. Subject	10**, 75, 73**, 76	60, 61, 62 (K-9), 63 (6-12), 70, 71
Supervisor – Spec. Ed. – One Field	10**, 75, or 76 (GS, GA or S Endorsement)	60, 61, 70, 71 and approval ***

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Supervisor — P.P.S. — One Field	10**, 73**, 75 or 76 (GS, GA or S Endorsement)	60, 61, 70, 71
Supervisor — Voc. Ed. — One Field	10**, 75, or 76 (GS, GA or S Endorsement)	60, 61, 70, 71
For This Position	These Types of Certificates Are Valid (Codes)	(Most Common)
Directors, Coordinators, General Supervisors	75 or 76 (GS, GA or S Endorsement)	60, 61, 62 (K-9), 63, 70, 71
Director — Spec. Ed. — More Than One Field	75 or 76 (GA or S Endorsement)	60, 61, 70, 71, and approval ***
Director — P.P.S. — More Than One Field	75 or 76 (GA or S Endorsement) 73** endorsed for supervision in multiple fields	60, 61, 70, 71
Director — Voc. Ed. — More Than One Field	75 or 76 (GA or S Endorsement)	60, 61, 70, 71
Chief School Business Official	75 or 76 (C.S.B.O. Endorsement)	Individuals serving as C.S.B.O prior to 7/1/77 may continue in their position
Principals, Asst. Prin. Administrative Asst., Associate Supt., Asst. Supt. Area Voc. Center Director	75 or 76 (GA or S Endorsement)	60, 61, 62 (K-9), 63 (6-12), 70, 71
Superintendent	75 or 76 (S Endorsement)	60, 61, 62 (K-9), 63 (6-12), 70, 71
School Service Personnel		
Guidance	73, 74	10
Nurse	73, 74	10
Social Worker	73, 74	10

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| ~~School Psychologist~~ ~~73,74~~

| ~~*Subject named only~~

| ~~**Endorsed for Supervision~~

| ~~***Additional work and course requirements must be completed under the Special Education Reimbursement Approval requirements of the Department of Specialized Educational Services in order to qualify for special education personnel reimbursement.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

STATE BOARD OF ELECTIONS

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- 1) Heading of the Part: Campaign Financing
- 2) Code Citation: 26 Ill. Adm. Code 100
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
100.125	New Section
100.150	Amendment
- 4) Statutory Authority: Implementing Article 9 of the Election Code [10 ILCS 5/Art. 9] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5/9-15(3)].
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking will add language to Section 100.150 to stipulate the manner in which SBEL treats committees that are required to file electronically and have been notified of that requirement and fails to do so.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Steven Sandvoss
General Counsel
State Board of Elections
1020 S. Spring Street
Springfield, Illinois 62708

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217/559-9939

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department did not submit an agenda prior to the filing deadline.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONSPART 100
CAMPAIGN FINANCING

Section	
100.10	Definitions
100.20	Official Forms
100.30	Forwarding of Documents (Repealed)
100.40	Vacancies in Office – Custody of Records
100.50	Multiple Filings by State and Local Committees
100.60	Filing Option for a Federal Political Committee
100.70	Reports of Contributions and Expenditures
100.80	Report Forms
100.90	Provision Circumvention
100.100	Proof of Identification; Application for Inspection and Copying (Repealed)
100.110	Loans by One Political Committee to Another
100.120	Receipt of Campaign Contributions
<u>100.125</u>	<u>Receipt by Mail of Pre-Election and Semiannual Reports of Campaign Contributions and Expenditures</u>
100.130	Reporting by Certain Nonprofit Organizations
100.140	Prohibited Contributions – State Property
100.150	Electronic Filing of Reports
100.160	Good Faith
100.170	Sponsoring Entity

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

SOURCE: Amended at 5 Ill. Reg. 1337, effective January 30, 1981; amended at 5 Ill. Reg. 12115, effective October 26, 1981; codified at 6 Ill. Reg. 7211; amended at 7 Ill. Reg. 225, effective December 16, 1982; amended at 14 Ill. Reg. 10824, effective June 22, 1990; amended at 16 Ill. Reg. 6982, effective April 21, 1992; amended at 18 Ill. Reg. 14707, effective September 9, 1994; amended at 21 Ill. Reg. 10044, effective July 21, 1997; emergency amendment at 23 Ill. Reg. 719, effective January 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6796, effective May 24, 1999; emergency amendment at 24 Ill. Reg. 13039, effective August 9, 2000, for a maximum of 150 days; emergency expired January 5, 2001; amended at 24 Ill. Reg. 14214, effective September 11, 2000; amended at 29 Ill. Reg. 18785, effective November 7, 2005;

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amended at 30 Ill. Reg. 10261, effective June 1, 2006; amended at 30 Ill. Reg. 17496, effective November 3, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 100.125 Receipt by Mail of Pre-Election and Semiannual Reports of Campaign Contributions and Expenditures

- a) Pre-election and semiannual reports of campaign contributions and expenditures must be received by the Board within the filing periods set forth in Section 9-10 of the Election Code. Subject to subsections (b) and (c) of this Section, if the reports are filed by mail and received by the Board after the filing deadline, they shall be considered delinquent and subject to penalties as provided in Section 9-10 of the Election Code and 26 Ill. Adm. Code 125.425. However, pursuant to Section 9-10(b) and (c) of the Election Code, if the envelope containing the reports contains a postmark showing that the envelope was mailed at least 72 hours prior to the due date, the reports shall be considered timely filed, regardless of when received in the office of the State Board of Elections.
- b) If the envelope containing either of the Reports named in subsection (a) of this Section is not received by the Board, the envelope is received but does not have a postmark printed by the United States Postal Service, or if the postmark is illegible, the report will either be deemed to have not been received or deemed to have been received on the date the envelope officially arrives in the office of the State Board of Elections. However, if the political committee is assessed a civil penalty for failing to file or delinquent filing either of the reports and, as part of the committee's appeal of the civil penalty assessment, it is alleged by the treasurer, chairman or candidate on a signed and notarized affidavit verifying that the report was mailed more than 72 hours prior to the filing deadline, and this is the first time the committee has made this claim as part of its appeal, the presumptive date of receipt will be rebutted by the testimony contained in the affidavit and the report will be deemed to have been timely received.
- c) When the committee raises the defense described in subsection (b) as part of its appeal for any subsequent civil penalty assessments, the appeal affidavit shall be accompanied by a certificate issued by the United States Postal Service showing the date on which the envelope was deposited with the United States Postal Service. The Board shall not consider this defense as valid in the absence of the certificate.
- d) When a political committee raises the defense described in subsection (b) at any time after an appeal has been granted pursuant to subsection (b), that defense shall

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be denied without consideration by the Board unless a certificate, issued by the United States Postal Service, verifying the date upon which the transmitting envelope was deposited with the United States Postal Service, is attached to the appeal affidavit. If the certificate is attached to the appeal affidavit, the Board shall hear and determine the appeal as it deems appropriate.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 100.150 Electronic Filing of Reports

- a) The State Board of Elections will make software available to committees required to report electronically under 10 ILCS 5/9-28.
- b) Once a committee exceeds the threshold that requires it to report electronically, it must continue thereafter to report electronically until it dissolves, whether or not its accumulation, receipts or expenditures fall beneath the levels set by statute for mandatory electronic filing.
- c) Once a committee is required to file its reports electronically under Section 9-28 of the Election Code, it must continue to file all reports (semiannual, amended semiannual, pre-election, amended pre-election, final, amended final, Schedule A-1) electronically, except as follows:
 - 1) A paper report shall be considered a timely filing if it is received by the Board on or before the filing deadline, provided that it covers the initial reporting period during which the mandatory electronic filing threshold is exceeded and that the report is filed electronically within 30 days after receipt of notice from the Board that this report was required to have been filed electronically. If the report is not filed electronically within this 30 day period, it shall be considered as never having been filed and the civil penalties mandated by 26 Ill. Adm. Code 125.425 will accrue from the date of the filing deadline.
 - 2) A paper report shall be considered a non-filing if the committee has previously received the notification referred to in subsection (c)(1). If the report is not filed electronically by the filing deadline, it shall be considered as having never been filed and the civil penalties mandated by 26 Ill. Adm. Code 125.425 will accrue until such time as it is filed electronically.

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NOTICE OF PROPOSED AMENDMENTS

- 3) A paper report shall be considered a timely filing if at least one previous report was required to have been filed electronically and the committee had never been notified by the Board that it was required to electronically file its reports, provided that the report is filed electronically within 30 days after the notification referred to in subsection (c)(1). If the report is not filed electronically within this 30 day period, it shall be considered as never having been filed and the civil penalties mandated by 26 Ill. Adm. Code 125.425 will accrue from the date of the filing deadline.
- 4) A paper report shall be considered a timely filing if it is received on or before the filing deadline and the committee has never exceeded the \$10,000 threshold requiring the electronic filing of its reports, regardless of whether the committee filed a previous reports electronically.
- 5) If a committee is assessed a civil penalty for delinquent filing a report required to be filed electronically and, in the course of its appeal, raises the defense that computer related issues (including, but not limited to, software, firewalls, system failures) prohibited the timely filing of an electronic report, the Board may consider that defense when determining the final outcome of the appeal.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Health Care
- 2) Code Citation: 20 Ill. Adm. Code 415
- 3) Section Number: 415.30 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Sections 3-2-2, 3-6-2, 3-7-2, 3-8-2, 3-10-2, 3-10-3, and 5-2-6 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-6-2, 3-7-2, 3-8-2, 3-10-2, 3-10-3, and 5-2-6] and authorized by Section 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-7-1]
- 5) Effective Date of Rulemaking: December 1, 2006
- 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: February 10, 2006; 30 Ill. Reg. 1562
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: To comply with Public Act 94-629, this rulemaking is amended to require that each offender be offered HIV testing free of charge and related counseling following transfer from reception and classification and also prior to release, discharge, or parole.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENT

Beth Kiel
Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277

217/522-2666, extension 6511

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

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENT

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER d: PROGRAMS AND SERVICESPART 415
HEALTH CARE

Section

415.10	Applicability
415.15	Responsibilities
415.20	Definitions
415.30	Medical and Dental Examinations and Treatment
415.40	Mental Health Services
415.50	Mental Health Examinations and Treatment for Guilty but Mentally Ill
415.60	Review of Placements in a Specialized Mental Health Setting
415.70	Involuntary Administration of Psychotropic Medication
415.80	Organ Transplants

AUTHORITY: Implementing Sections 3-2-2, 3-6-2, 3-7-2, 3-8-2, 3-10-2, 3-10-3, and 5-2-6 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-6-2, 3-7-2, 3-8-2, 3-10-2, 3-10-3, and 5-2-6] and authorized by Section 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-7-1].

SOURCE: Adopted at 8 Ill. Reg. 14496, effective August 1, 1984; amended at 11 Ill. Reg. 10240, effective June 1, 1987; emergency amendment at 14 Ill. Reg. 13316, effective August 15, 1990, for a maximum of 150 days; amended at 15 Ill. Reg. 988, effective January 12, 1991; amended at 19 Ill. Reg. 15428, effective November 15, 1995; emergency amendment at 21 Ill. Reg. 638, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5911, effective May 1, 1997; emergency amendment at 28 Ill. Reg. 13805, effective October 1, 2004, for a maximum of 150 days; emergency expired February 27, 2005; amended at 29 Ill. Reg. 3883, effective March 1, 2005; amended at 30 Ill. Reg. 18914, effective December 1, 2006.

Section 415.30 Medical and Dental Examinations and Treatment

- a) Within seven working days after admission to a reception and classification center, each offender shall be given a physical examination by a physician or by a nurse practitioner under the direct supervision of a physician or by a physician's assistant under the direct supervision of a physician. Each offender shall be immunized as prescribed by the physician.
- b) Each offender shall be examined by a dentist within 10 working days after

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NOTICE OF ADOPTED AMENDMENT

admission to a reception and classification center. The dentist shall chart the oral cavity and classify dental health.

- c) Emergency treatment shall be available to offenders 24 hours a day.
- d) A health care unit or area shall be established at each adult and juvenile correctional facility (excluding transition centers) within the Department. Offenders shall be admitted to the health care unit or area as determined by health care personnel. Offenders in the Impact Incarceration Program or at work camps shall receive health care through the program or camp's parent facility.
- e) Offenders shall be informed of the institutional procedures for obtaining medical, dental, or mental health services.
- f) Persons committed to adult and juvenile facilities (excluding transition centers) shall be provided medical and dental treatment, with the consent of the parent or guardian where applicable, as prescribed by a Department physician or dentist.
- g) Adult offenders who require non-emergency medical or dental services shall authorize the Department to deduct a \$2.00 co-pay from present or future funds in his or her trust fund account prior to each visit. Non-emergency services do not include any follow-up visits determined necessary by a Department physician or HIV (Human Immunodeficiency Virus) testing and related counseling.
 - 1) The co-payment shall be paid from the offender's trust fund when the services are delivered.
 - 2) Offenders who are without funds at the time services are delivered shall not be denied medical or dental services. The offender's trust fund account shall be restricted for the amount of co-payment and shall be paid upon receipt of future funds.
 - 3) An offender who is found to be indigent shall be exempt from the co-payment. An offender shall be considered indigent if during the entire term of his or her incarceration the offender is without funds to pay the \$2.00 co-payment.
- h) An offender who has or is suspected of having a communicable disease may be isolated from other offenders. This determination shall be made by a physician as deemed medically necessary.

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- i) In case of critical illness or major surgery, the Chief Administrative Officer shall:
 - 1) Attempt to notify the person designated by the offender to be contacted in case of an emergency and, where applicable, the parent or guardian.
 - 2) Notify the Chief Legal Counsel if consent for treatment is not obtained or other legal issues arise.
 - 3) Notify the Agency Medical Director.
- j) The decision to continue or terminate a pregnancy is a medical determination that shall be made by the offender in consultation with her physician.
 - 1) Offenders contemplating an abortion shall be provided with information and counseling concerning the nature of, the consequences of, and any risks associated with the procedure and available alternatives.
 - 2) Offenders shall be granted a furlough for the purpose of obtaining an abortion. Offenders shall be permitted to accept funds for an abortion from local community charities or other sources.
- k) Offenders shall be offered testing and related counseling for HIV following transfer from reception and classification and prior to release, discharge, or parole.
- lk) A record of all medical and dental examinations, findings, and treatment shall be maintained.

(Source: Amended at 30 Ill. Reg. 18914, effective December 1, 2006)

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NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers</u> :	<u>Adopted Action</u> :
190.2	Amendment
190.10	Amendment
190.20	Amendment
190.30	Amendment
190.40	Amendment
190.50	Amendment
190.60	Amendment
190.70	Amendment
190.80	Amendment
190.90	Amendment
190.100	Amendment
190.110	Amendment
190.120	Amendment
190.130	Amendment
190.140	Amendment
190.150	Amendment
190.165	Amendment
190.180	Amendment
190.190	Amendment
190.200	Amendment
190.500	Amendment
190.565	Amendment
190.580	Amendment
190.600	New Section
190.601	New Section
190.605	New Section
190.610	New Section
- 4) Statutory Authority: Illinois Credit Union Act [205 ILCS 305].
- 5) Effective Date of Amendments: December 4, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No

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- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: June 23, 2006; 30 Ill. Reg. 10622
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: "Section 190.601 Purpose and Scope" was added.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Payday Loan Reform Act requires the Department to promulgate regulatory standards that address a number of business practices concerning payday loans.
- 16) Information and questions regarding these Adopted Amendments shall be directed to:

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

217/785-0813 Fax: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 190

ILLINOIS CREDIT UNION ACT

SUBPART A: GENERAL PROVISIONS

Section	
190.2	Definitions
190.5	Credit Union Service Organizations
190.10	Field of Membership Procedures
190.20	Hearings
190.30	Cease and Desist Procedures
190.40	Removal or Suspension Procedures
190.50	Fees
190.60	General Accounting Procedures
190.70	Loan Loss Accounting Procedures
190.80	Use of Electronic Data Processing
190.90	Fixed Asset Investments
190.100	Classes of Share and Special Purpose Share Accounts
190.110	Share Drafts
190.120	Bond and Insurance Requirements
190.130	Verification of Share and Loan Accounts
190.140	Real Estate Lending
190.150	Reverse Mortgage
190.160	Lending Limits – Consumer Loans
190.165	Business Loans
190.170	Group Purchasing
190.180	Investments
190.190	Liquidation
190.200	Conversion of Charter
190.210	Reimbursement for Financial Records
190.220	Registration of Out of State Credit Unions

SUBPART B: HIGH RISK HOME LOANS

Section	
190.500	Definitions
190.505	Applicability of Rule

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190.510	Good Faith Requirements
190.515	Fraudulent or Deceptive Practices
190.520	Prohibited Refinances
190.525	Negative Amortization
190.530	Negative Equity
190.535	Balloon Payments
190.540	Financing of Certain Points and Fees
190.545	Financing of Single Premium Insurance Products
190.550	Lending Without Due Regard to Ability to Repay
190.555	Verification of Ability to Repay
190.560	Payments to Contractors
190.565	Counseling Prior to Perfecting Foreclosure
190.570	Mortgage Awareness Program
190.575	Offer of Mortgage Awareness Program
190.580	Third Party Review

SUBPART C: PAYDAY LOANSSection190.600Definitions190.601Purpose and Scope190.605Applicability of Rule190.610Issuance of Payday Loans by Credit Unions

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

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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. 10579, effective July 8, 2005; amended at 30 Ill. Reg. 18919, effective December 4, 2006.

SUBPART A: GENERAL PROVISIONS

Section 190.2 Definitions

For purposes of the Illinois Credit Union Act and this Part, the words and phrases defined in this Section shall have the meanings ascribed to them unless the context requires otherwise.

"Act" means the Illinois Credit Union Act [205 ILCS 305].

"Credit union" means a credit union chartered under the Illinois Credit Union Act, or, as the context permits, under the Federal Credit Union Act or the laws of any state.

["Department" means the Illinois Department of Financial and Professional Regulation.](#)

"Director" means the Director of the [Department of Financial and Professional Regulation-Division Illinois Department](#) of Financial Institutions.

["Division" means the Department of Financial and Professional Regulation-Division of Financial Institutions.](#)

"Net worth" means retained earnings, as defined under generally accepted accounting principles (Wiley GAAP, published by John Wiley & Sons, 605 Third Avenue, New York NY 110158-0012, 2002, no later editions or amendments included), and secondary capital.

"Retained earnings" includes undivided earnings, regular reserve, other reserves, and any other appropriations designated by management or regulatory authorities.

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"Secondary capital" means a secondary capital account or other form of non-share account, including without limitation a debt instrument, subject to the following conditions:

The maturity or the account shall not be less than three years and the account shall not be redeemable prior to maturity or the expiration of a minimum withdrawal notice period of three years.

The account shall not be insured by the National Credit Union Share Insurance Fund or any governmental or private entity.

The account holder's claim against the credit union must be subordinate to all other claims, including shareholders, creditors and the National Credit Union Share Insurance Fund.

Funds in the account, including interest accrued and paid into the account, must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings. In lieu of being paid into the account, interest may be paid directly to the account holder or into a separate account from which the account holder may make withdrawals. Losses shall be distributed pro-rata among all secondary capital accounts held by the credit union at the time losses are realized.

The account may not be pledged or provided by the account holder as security on a loan or obligation with the credit union or any other party.

In the event of liquidation of the credit union, the accounts will, to the extent they are not needed to cover losses at the time of liquidation, be paid out to the account holder.

"Paid-in and unimpaired capital" or "unimpaired capital" means shares as defined in Section 1.1 of the Illinois Credit Union Act.

"Person" or "persons" means individuals and bodies politic and corporate, including without limitation corporations, limited liability companies, general partnerships, limited partnerships and joint ventures; unless, from the context and facts, the intention is plain to apply only to individuals. Persons who reside in or live in a geographical area include non-natural persons located within the

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geographical area.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any of the several territories and possessions of the United States.

"Surplus" means undivided earnings.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.10 Field of Membership Procedures

- a) All requests to amend the field of membership of a credit union must be in writing and provide sufficient detail to establish conformance with a definition of common bond as specified in Section 1.1 of the Illinois Credit Union Act (~~the The~~ Act) [205 ILCS 305](~~Ill. Rev. Stat. 1987, ch. 17, par. 4402~~). At a minimum this detail must include a definition of the common bond, number of individuals and demographics of potential members, and a letter of support from a sponsor organization, association, or employer if applicable.
- b) To change field of membership a credit union must amend its by-laws and articles of incorporation on forms provided by the ~~Division~~Department. These amendments require the Director's approval prior to becoming effective.
- c) The ~~Division~~Department, in administering the common bond requirement of the Act, will evaluate changes to existing or establishment of new fields of membership caused by new charters, conversion, or changes in existing by-laws in accordance with the following criteria:
 - 1) Each credit union must have a field of membership consisting of one or more of the following common bonds: association, occupation or community. A central credit union or a corporate credit union may serve only those groups or persons specified in the Act and its by-laws and Statement of Incorporation.
 - 2) The common bond must conform to the Act and include some unifying factor which links and distinguishes a field of membership from the general public. A generalized common belief, philosophy, or agreement, is not in itself a sufficient basis for a common bond.

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- 3) In determining whether a change in a field of membership is appropriate, the Division ~~Department~~ also shall consider:
- A) the specific circumstances which govern each request;
 - B) the original assumptions and circumstances of the common bond when the charter was granted;
 - C) the sponsoring organization's knowledge of and support for the request;
 - D) the credit union's demonstrated ability to fully serve its existing field in a safe and sound manner.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.20 Hearings

- a) Upon written request, made within 90 days after any administrative action or regulatory decision made pursuant to the Act, the Director will authorize a formal hearing to review the propriety of administrative actions and regulatory decisions by issuing a notice of hearing.
- b) The notice shall be served personally or by certified or registered mail or as otherwise provided by law upon the parties or their agents appointed to receive service of process and shall include the following:
 - 1) A statement of the time, place, and nature of the hearing.
 - 2) A statement of the legal authority and jurisdiction under which the hearing is to be held.
 - 3) A reference to the particular Sections of the substantive and procedural statutes and rules involved.
 - 4) Except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or other reference number.
 - 5) The names and mailing addresses of the hearing officer, all parties, and all

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other persons to whom the agency gives notice of the hearing, unless otherwise confidential by law.

- c) An opportunity shall be afforded all parties to be represented by legal counsel and to respond and present evidence and argument.
- d) Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.
- e) Hearing Officers.
 - 1) The hearing officer designated by the Director shall be an attorney licensed to practice in Illinois and shall have the authority to:
 - A) examine or permit examination of any witness under oath;
 - B) determine the order of appearance of all parties;
 - C) receive all evidence and testimony and rule on its admissibility as well as require the production of any relevant document or witness;
 - D) rule on objections to evidence; and
 - E) make a written report with recommendations to the Director which shall include findings of fact and conclusions of law with respect to the claim. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
 - 2) Petitioner or Respondent may petition the Director to disqualify the appointed hearing officer for bias or conflict of interest by presenting the Director with convincing and compelling evidence of the hearing officer's bias or conflict of interest. An adverse ruling shall not constitute bias or conflict of interest.
- f) General Provisions.
 - 1) When a hearing is scheduled pursuant to this Part, the petitioner or his attorney shall be notified by certified or registered mail, return receipt requested, at least ten days prior to the date set for the hearing. Delivery of notice to the United States Postal Service shall constitute delivery.

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- 2) A continuance shall be granted for good cause by the hearing officer. The continuance shall be:
 - A) in writing, in duplicate and signed by the petitioner or his attorney and shall state the reasons for the request;
 - B) delivered to the hearing officer at least three days prior to the scheduled hearing.
 - 3) For the purposes of subsection (f)(2), good cause shall require the Petitioner to demonstrate real and compelling need for additional time. It shall include but not be limited to illness, service in the armed forces, etc.
 - 4) Failure to attend a hearing shall result in the dismissal of the party's petition and the assessment of the costs for such a hearing upon the party. A person whose petition has been so dismissed shall not resubmit until the assessed costs have been paid.
 - 5) Any party to a proceeding may order a court reporter to transcribe the proceeding. If the petitioner makes the request, he or she shall pay all costs associated with the transcript. If the court reporter is ordered by the hearing officer, any party may purchase a transcript.
 - 6) The Director shall assess all costs and attorneys' fees against any party who has unreasonably delayed a proceeding or has filed a claim in bad faith. "Unreasonable delay of a proceeding" shall be determined to exist upon a preponderance of evidence indicating that the petitioner is purposely delaying the hearing either actively or through inattention to detail. A determination of "filing a claim in bad faith" requires a preponderance of evidence that the hearing petition was filed merely to stay [DivisionDepartment](#) action with no intent for expeditious resolution of the contested issue.
- g) Conduct of Hearings.
- 1) The hearing officer shall open the hearing by presenting for the record his or her letter of authorization from the Director.
 - 2) The rules of evidence and privilege as applied in civil cases in [Illinoisthe](#)

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Circuit Courts ~~of this State~~ shall be followed. The hearing officer may admit evidence not admissible under those rules if such evidence could be relevant to the case. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence not admissible under those rules of evidence may be admitted (except where precluded by statute) if it is a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.

- 3) The hearing officer may on his or her own motion or the motion of one of the parties take notice of matters of which ~~Illinois~~ the Circuit Courts ~~of this State~~ may take judicial notice. *Notice may be taken of generally recognized technical or scientific facts within the ~~Division's~~ Department's specialized knowledge if parties are notified, before or during the hearing, and if afforded an opportunity to contest the material so noticed* [5 ILCS 100/10-40(c)]. The burden of opposing any material admitted upon notice shall be upon the party so opposing.
- 4) No ~~Division~~ Department employee or hearing officer shall, after notice of a hearing, communicate with any party or his attorney in connection with any issue in the hearing except upon notice and opportunity for all parties to participate.
- 5) The record of any hearing shall include:
 - A) all pleadings, and evidence received whether admitted or excluded;
 - B) a statement of all matters officially noticed;
 - C) all offers of proof, objections and rulings thereon;
 - D) all proposed findings and exceptions;
 - E) any decision, opinion, or report by the hearing officer;
 - F) any communication prohibited by this Part, although the communication shall not form the basis for any finding of fact;

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- G) any evidence excluded by the hearing officer, even though such evidence is not used in the determination of the claim;
 - H) a proceeding transcript recorded by any means that will adequately insure the preservation of the testimony.
- 6) Within 90 days after the hearing or the receipt of all necessary documents, the hearing officer shall report to the Director, pursuant to 38 Ill. Adm. Code 190.20.
 - 7) Within 30 days after receiving the report of the hearing officer, the Director shall issue a decision, which shall be served on claimant and other parties personally or by registered or certified mail, return receipt requested. Copies of the hearing officer's report to the Director are available upon written request.
- h) Petition to Reconsider.
 - 1) Within 30 days after receipt of the Director's decision, any party may petition the Director for reconsideration based upon a verified petition. An affidavit shall accompany the petition stating that the decision was against the manifest weight of the evidence, was contrary to law, or was arbitrary or capricious, and is affected by newly discovered evidence not in existence at the time of the initial hearing or which could not have been discovered using due diligence at that time.
 - 2) The Director shall determine within 15 days whether to reconsider the case. If reconsideration is allowed, a hearing shall be held pursuant to this Part and shall be limited to the issues raised by the petition and affidavit. If reconsideration is denied, the Director's initial decision shall be the final administrative decision of the [DivisionDepartment](#).

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.30 Cease and Desist Procedures

- a) *The Director shall issue a cease and desist order to any credit union which either willfully violates or the Director has reasonable cause to believe is about to violate the Act or rules or any condition imposed in writing by the [DivisionDepartment](#) or commits random violations which jeopardize the safety*

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and soundness of the credit union. Such Order shall be sent to the Chairman of the credit union by certified mail with a copy to each member of the Board of Directors.

- b) Within 10 days of the receipt of the Order, the credit union shall respond in writing to request a review of such exceptions. If no response is received, or the Order is agreed to in writing, the credit union shall be deemed to have consented to the issuance of the cease and desist order.
- c) If a review of the Order is requested in writing by the credit union and after such review of the circumstances and record by the Director or his designated agent, the Director finds a circumstance described in Section 8(4) of the Illinois Credit Union Act [\[205 ILCS 305/8\(4\)\]](#)~~(Ill. Rev. Stat. 1981, ch. 17, par. 4409(4))~~, then the Director shall issue or extend as appropriate an order to cease and desist to the credit union from any such practice or violation. Such order shall require the credit union and its directors, officers, committee members, employees and agents to cease and desist from such violations and to take affirmative action to correct the conditions resulting from any such violation. If the credit union has specific grounds for believing that the evidence upon which the order is based is not factual then the credit union may request a formal hearing under 38 Ill. Adm. Code 190.20.
- d) A cease and desist order shall become effective upon receipt by the credit union and shall remain effective until it is terminated by action of the Director or a reviewing court. Delivery to the United States Postal Service shall be presumed to constitute delivery to the credit union.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.40 Removal or Suspension Procedures

- a) Under circumstances as described in Section 8(5) of the Illinois Credit Union Act [\[205 ILCS 305/8\(5\)\]](#)~~(Ill. Rev. Stat. 1991, ch. 17, par. 4409(5))~~, the Director or his agent shall issue and serve upon a director, officer or committee member a written Order of Suspension to remove the named [person](#)~~person(s)~~ from office and/or to prohibit their further participation in any manner in the conduct of the affairs of such credit union.
- b) Such Order, which shall contain a statement of the facts constituting the grounds therefore, shall be sent by certified mail to the Chairman with a copy to each

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member of the affected credit union's Board of Directors and the President, if not a director and shall become effective upon service and, unless stayed by a court, shall remain in effect pending the completion of administrative proceedings as outlined herein.

- c) Within 15 days of the mailing of the Order, the named ~~persons~~person(s) shall respond in writing to request an Administrative review of the Order. If no response is received or the Order is agreed to in writing, the ~~persons~~person(s) shall be deemed to have consented to the issuance of an Order of Suspension thereby prohibiting the named individuals from further participation in any manner in the conduct of affairs of any credit union chartered under the Act. Such order shall remain effective until it is terminated by action of the Director or reviewing court.
- d) Within 10 days of receipt of the conclusions of the administrative review by the Director, if the ~~persons~~person(s) named have specific grounds for believing that the evidence upon which the order is based is not factual then the person(s) may request a formal hearing under 38 Ill. Adm. Code 190.20.
- e) In the event that all of the directors of a credit union are suspended or removed, the Director, under authority of Section 61(4) of the Illinois Credit Union Act ~~[205 ILCS 305/61(4)](Ill. Rev. Stat. 1991, ch. 17, par 4462(4))~~, shall appoint a Manager-Trustee to manage the affairs of the credit union until such time as the Director appoints interim successors to the directors to serve until the next annual members meeting.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.50 Fees

The schedule of annual regulatory fees is contained in Section 12 of the Illinois Credit Union Act. In addition, pursuant to Sections 8 and 9 of the Illinois Credit Union Act, the Director prescribes the following fees:

- a) Service Fee Charges:
 - 1) Investigation of application for permission to organize a new credit union \$250
 - 2) Preparation and/or approval of an amendment

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to the Articles of Incorporation or to the By-Laws:

Other than to add or convert to a community common bond:

Credit unions with assets less than \$5 million.....	\$10
Credit unions with assets of \$5 million and less than \$30 million.....	\$15
Credit unions with assets of \$30 million and greater.....	\$25

To add or convert to a community common bond (irrespective of credit union asset size) \$250

- 3) Preparation and/or approval of standard revised set of By-Laws..... \$50
- 4) Preparation and/or approval of non-standard revised set of By-Laws (excluding individual or minor revisions)..... \$250
- 5) Photocopy of any documents per page \$1
- 6) Late filing of any report for each day late (excluding 5300 Reports):
 - Credit unions with assets less than \$5 million \$15
 - Credit unions with assets of \$5 million and less than \$30 million \$25
 - Credit unions with assets of \$30 million and greater..... \$50
- 7) Late filing of any 5300 Report for any credit union for each day late:
 - Credit unions with assets less than \$5 million..... \$25

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	Credit unions with assets of \$5 million and greater	\$50
8)	Preparation of a list of credit unions by name and address.....	\$100
9)	Credit Union Act, Rules & Regulations and standard By-Laws in hardback binder	\$200
	Credit Union Act (no binder)	\$50
	Rules & Regulations (no binder).....	\$50
	Standard By-Laws (no binder)	\$50
	Hardback Binder.....	\$50
b)	Mergers, Conversions, Investigations, Hearings and Failure to Maintain Books:	
1)	Supervision of merger or conversion, including completion of transfer of accounting records of merging credit union to surviving credit union's records (excluding involuntary or unsolicited mergers for which there shall be no fee).....	\$250
2)	Special investigation or examination of a credit union when the opinion of the Director, there is reasonable cause to believe the credit union is engaged or has engaged, or is about to engage in an unsafe or unsound practice, or is violating or has violated a law, rule or regulation or any condition imposed in writing by the Division Department, or to enable the Director to determine the safety of a credit union's operation or its solvency.	
	Charge per examiner per day or part thereof	*\$190

*Provided that such charges may not exceed the annual regulatory fee provided in Section 12 of

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the Illinois Credit Union Act for an annual examination.

3) The cost of any formal hearing requested by a credit union in accordance with procedures in 38 Ill. Adm. Code 190.20 will be assessed by the Director.

4) A credit union failing to have its books and records available and currently posted* when contacted by the ~~Division's Department's~~ examiner for examination, resulting in the ~~Division's Department's~~ inability to conduct the examination, will be assessed a fee of:

Credit unions with assets of less than \$1 million	\$50
Credit unions with assets of \$1 million and less than \$5 million	\$100
Credit unions with assets of \$5 million and less than \$10 million	\$250
Credit unions with assets of \$10 million and less than \$30 million	\$500
Credit unions with assets of \$30 million and less than \$100 million	\$1,000
Credit unions with assets of \$100 million and less than \$500 million	\$2,500
Credit unions with assets of \$500 million and greater.....	\$5,000

*Currently posted means that the accounts are posted by the 15th of the following month.

The fee authorized under this subsection (b)(4) shall not be assessed if an immaterial number of accounts is not posted by the 15th day of the

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following month, as determined under generally accepted accounting principles (Wiley GAAP, published by John Wiley & Sons, 605 Third Avenue, New York NY 110158-0012, 2002, no later editions or amendments included), or more frequently than annually.

c) Payment:

- 1) A credit union shall pay any fee listed in subsections (a) and (b) of this Section no later than 20 days after receipt of an invoice from the ~~Division~~Department.
- 2) Individuals, partnerships or other corporations shall pay in advance any fee to be charged for the preparation of the work requested. The ~~Division~~Department, upon request, shall provide an estimated cost of the work requested.
- 3) Fees shall be waived by the Director for forms and copies supplied to another agency of government or where the fee was not imposed according to the Act or this Part. Fees listed in subsections (a) and (b) of this Section may be waived, in whole or in part, by the Director, upon a showing by the credit union satisfactory to the Director that the imposition of the fee in the particular case would be inequitable or create a hardship for the credit union.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.60 General Accounting Procedures

- a) All credit unions will maintain their books and records in accordance with generally accepted accounting principles (Wiley GAAP, published by John Wiley & Son, 605 Third Avenue, New York NY 110158-0112, 2002, no later editions or amendments included), and in such a manner as to provided an accurate report of financial condition, with the exception of the selection of the accounting method to be used or when otherwise directed by statutory requirements. In the event that a credit union is using the modified cash basis of accounting, and the Director determines that such method causes a material misstatement of the financial condition of the credit union, he shall require that the credit union convert to the full accrual method of accounting except where factors such as prohibitive cost or lack of expertise are evident. The ~~Division~~Department shall notify in writing any credit union required to convert to the full accrual method and provide 60 days to

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review and respond.

- b) If the credit union does not concur with the ~~Division's~~Department's requirement, it may request a formal hearing under 38 Ill. Adm. Code 190.20. The order to change accounting procedures is stayed pending the final outcome of the hearing.
- c) Regardless of the method of accounting in use, the following items must be accrued or amortized:
 - 1) Dividends on Classes of Shares;
 - 2) Premiums and Discounts on purchased investments;
 - 3) Depreciation of Fixed Assets;
 - 4) Interest on investments when paid less frequently than once a year.
- d) If a credit union uses the accrual method to recognize interest income on consumer loans, such accrual must be stopped and income recognized on a cash basis whenever the borrower is three months or more delinquent in contractual payments.
- e) Credit unions' charts of accounts must be kept in sufficient detail to allow accurate and full completion of all reports required by Section 9 of the Act [205 ILCS 305/9].
- f) Pursuant to the authority granted the Director by Section 60(B) of the Act [205 ILCS 305/60] to decrease the reserve requirement set forth in Section 60(A) of the Act, a credit union is exempt from the reserve requirement of Section 60(A) provided:
 - 1) The credit union's net worth to asset ratio is 7% or greater; or
 - 2) If the credit union's net worth to asset ratio at the end of a calendar quarter is less than 7%, the credit union transfers an amount equal to .1% of the credit union's assets from undivided earnings to regular reserve at the end of the next calendar quarter and quarterly thereafter until the net worth to assets ratio is equal to or greater than 7%.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

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Section 190.70 Loan Loss Accounting Procedures

- a) For the purpose of absorbing and reporting loan losses, all credit unions must establish, at a minimum, the following accounts in the general ledger:
- 1) Allowance for Loan Losses – A portion of the statutory Regular Reserve segregated and reported as a direct reduction of loans.
 - 2) Provision for Loan Losses – An expense account, immediately preceding dividend expense, used to reflect the cost of losses on loans. At a minimum, adjustments to the allowance for loan losses shall be made prior to the distribution or posting of any dividend to the accounts of members so that the valuation allowance for loan losses established fairly presents the value of loans and probable losses for all categories of loans. The allowance for loan losses must encompass:
 - A) specifically identified substandard doubtful or loss loans;
 - B) pools of classified loans;
 - C) pools of unclassified loans (consumer, credit card, mortgage, business, etc.); and
 - D) a general portion, as needed, for all other loans and credit instruments.
- b) The Allowance for Loan Losses (ALL) is initially established by a one-time transfer from the Regular Reserve (RR). The portion of the ALL adjustment that is attributable to the initial adoption of the Individual Classification method may be made through a one time entry to the undivided earnings account and shall only be permitted as a result of a statutory examination. Any subsequent replenishment of the ALL must be expensed using the Provision for Loan Losses (PLL) Account. Except as provided herein no subsequent transfer from the Regular Reserve is permitted after the initial establishment of the Allowance for Loan Losses. The ALL shall be maintained at a level equivalent to an amount computed using both the past five calendar years average loss ratio and an individual classification of probable losses for all consumer and real estate loans. Pursuant to subsection (a)(2)(C), if a pool consists of a large group of smaller balance homogeneous loans, a credit union may utilize an estimated loss

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percentage on the pool to be determined by collectively evaluating the pool of loans for impairment, as permitted by generally accepted accounting principles (GAAP) (Miller, Comprehensive GAAP Guide, Harcourt, Brace & Co., 6277 Sea Harbor Dr., Orlando FL 32877, 1997 (no subsequent dates or editions)). The portion of the ALL attributable to the pool of loans may be determined by applying the estimated loss percentage to the total outstanding balance of the loans comprising the pool instead of individually classifying delinquent loans in the pool. An individual loan within a smaller balance homogeneous loan pool shall not exceed a credit union's unsecured lending limits set forth in Section 190.160. Separate ALL's shall be established for loans secured by real estate and for those loans not so secured.

- c) Delinquency is defined as the failure to make a required payment on or before the contractual due date. Loans delinquent more than 60 days, bankruptcy and loans that exhibit deficiencies that impair their full collectibility shall be classified as either substandard, doubtful or loss.
- 1) Substandard Loans – A substandard loan is one that is inadequately protected by the current sound worth and paying capacity of the obligee or of the collateral pledged. Loans classified as substandard have a well defined weakness or weaknesses that jeopardized the liquidation of the debt. They are characterized by the distinct possibility that the credit union will sustain some loss if the deficiencies are not corrected. Loans in this category shall generally be listed in a range from zero to under 50 percent potential loss.
 - 2) Doubtful Loans – A loan classified doubtful has all the weaknesses inherent in a loan classified substandard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions and values, highly questionable and improbable. The possibility of loss is extremely high, but because of certain important and reasonable specific pending factors which may work to the advantage and strengthening of the loan, its classification as an estimated loss is deferred until a more exact status may be determined. Loans in this category shall be listed at a minimum 50 percent potential loss.
 - 3) Loss Loans – Loans classified as loss loans are considered uncollectible and shall be listed at 100 percent potential loss. Loans considered loss loans include, but are not limited to:

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- A) Any loan 180 days or more delinquent without a payment of at least 75% of the contractual payment within the last 90 days. Involuntary transfers from shares and proceeds from the sale of collateral and insurance settlement shall not be considered as payments.
 - B) Any loan that is 180 days or more delinquent and referred to an attorney or a collection agency.
 - C) Any loan which was previously 180 days or more delinquent, has been refinanced or extended and has subsequently become 90 days or more delinquent. In instances where a delinquent loan is refinanced or extended and does not fully and fairly disclose the delinquency as determined in a statutory examination of the credit union, the loan shall be immediately classified as a loss loan.
 - D) Any loan with respect to which the borrower has filed a Chapter 7 bankruptcy petition and has been granted a discharge by the court.
 - E) Any loan with respect to which the borrower has filed a Chapter 13 bankruptcy and the credit union has not received a payment within 180 days or more after the confirmation of the plan, unless the plan stipulates repayment of the loan in full and the credit union has determined from the Trustee that plan payments are being made on a timely basis to the Trustee but have not yet been disbursed to the credit union.
 - F) Any loan with respect to which the borrower's whereabouts is unknown (a "skip") unless there is a comaker whose whereabouts is known and the loan is less than 180 days delinquent.
 - G) Any loan where a "deficiency balance" has resulted from the sale of collateral or an insurance settlement unless there is documented evidence of periodic payments on a consistent basis in an amount sufficient to retire the deficiency balance in a reasonable time.
- 4) Where there is evidence of collectibility of loans meeting the loss loans criteria of subsection (c)(3) of this Section, the credit union's records shall list the loans and classify them as substandard or doubtful and detail the

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evidence of collectibility used to exclude each loan from the loss loan category. Evidence of collectibility shall be the following collection activities and remedies:

- A) Execution and filing of an enforceable reaffirmation agreement on the loan in a Chapter 7 bankruptcy proceeding prior to completion of the ~~Division's~~ ~~Department's~~ loan analysis in any statutory examination of the credit union.
 - B) Voluntary repayment of the loan pursuant to Section 524(f) of the federal Bankruptcy Code (11 USC 524(f)).
 - C) Collection of the loan pursuant to repossession of collateral without judicial process, or by replevin, detinue, forcible entry and detainer or mortgage foreclosure proceedings.
 - D) Collection of the loan pursuant to post-judgment enforcement remedies including wage deduction, garnishment and turnover orders entered in citation to discover assets supplementary proceedings.
 - E) The entry of a judgment pay plan order providing for repayment of the loan in a judicial proceeding.
 - F) Documented evidence of repayment of that portion of the loan covered by collateral protection or other insurance policies.
 - G) Documented evidence of periodic payments on a consistent basis in an amount sufficient to retire the loan balance in a reasonable time.
- 5) The Five Year Average Loss Ratio is computed by dividing a sum not exceeding the total of the past five year's net loan losses by a sum not exceeding the total of the last five year's December 31 loan balances. The resulting ratio is to be multiplied by the total loans outstanding less the loans that have been classified individually or as pools of smaller balance homogeneous loans. Based upon the asset cycle of the credit union, the credit union, after receiving the written approval from the Director, may adjust the historical time period to more accurately reflect the credit union's loan loss experience. A new credit union not having a Five Year

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Average Loss Ratio for loss loans will be evaluated using available data.

- A) Before every dividend declaration or every closing date, all delinquent and bankrupt loans shall be individually classified as either substandard, doubtful or loss. All loans classified as losses must be charged off to the ALL.
- B) In calculating the proportion of net income that shall be transferred to the Regular Reserve, any amounts already taken as PLL during the calendar year shall be subtracted from the statutory reserve transfer. In the event the amount of PLL exceeds the statutory reserve transfer that has been calculated, an amount equivalent to the difference between the two shall be transferred from Regular Reserve to Undivided Earnings.
- d) Nothing in this Section shall be applicable to the establishment of an Allowance for Loan Losses account for business loans. Business loans shall be classified pursuant to Section 190.165.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.80 Use of Electronic Data Processing

- a) A credit union whose records or accounting system is maintained using electronic data processing (EDP) equipment must have such accounts and EDP programs to enable the credit union to complete in an accurate and timely manner all required reports and to maintain its books, records, all subsidiary accounts and management reports, as appropriate, in accordance with the Illinois Credit Union Act and Rules and Regulations promulgated thereunder. Delinquency listings should be completed in accordance with 38 Ill. Adm. Code 190.70.
- b) A credit union must notify the ~~Division~~Department in writing ~~forty-five (45)~~ days prior to implementation of data processing system or conversion to a different system. This notification must include the name of the system and the date of conversion.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.90 Fixed Asset Investments

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a) Definitions

"Fixed assets" means premises and furniture, fixtures and equipment, as those terms are defined in this Section:

"Premises" includes any office, branch office, suboffice, service center, parking lot, other facility, or real estate where the credit union transacts or will transact business.

"Furniture, fixtures and equipment" includes all office furnishings, office machines, computer hardware and software, automated terminals, and heating and cooling equipment.

"Investment in fixed assets" means:

any investment in real property (improved or unimproved) that is being used or is intended to be used as premises, excluding premises leased for five years or less;

any leasehold improvement on premises;

the present value of the aggregate of all capital lease payments pursuant to lease agreements for fixed assets, excluding lease payments for premises leased for five years or less;

any investment in the bonds, stock, debentures, or other obligations of a partnership or corporation or limited liability entity, including a credit union service organization, holding any fixed assets used by the credit union and any loans to such partnership or corporation or limited liability entity; and

any investment in furniture, fixtures and equipment.

"Retained earnings" includes undivided earnings, regular reserve, other reserves, and any other appropriations designated by management or regulatory authorities.

b) Investment in Fixed Assets

1) Credit unions with assets of less than \$1,000,000 that choose to invest in premises must apply to the [DivisionDepartment](#) for approval.

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- 2) Credit unions with assets of \$1,000,000 or more may invest in fixed assets, without the prior approval of the ~~Division~~Department, subject to the following conditions:
- A) the aggregate amount of the investments does not exceed the lesser of 70% of the credit union's retained earnings or 6% of total assets; or
 - B) the aggregate amount of the investments exceeds the lesser of 70% of the credit union's retained earnings or 6% of total assets, provided the credit union has:
 - i) a current net worth of 9% or, if applicable, 200 basis points over its risk based net worth level, whichever is higher;
 - ii) a composite CAMEL rating of 1 or 2 for 2 consecutive examinations; and
 - iii) a consistency in management evidenced by retention of the same chief management official during the 2-year period preceding the subject fixed asset investment.
- c) Whenever a fixed asset investment in premises does not require ~~Division~~Department approval, the credit union shall give the ~~Division~~Department notice of the credit union's intent to make the investment, at least 14 days prior to becoming obligated on the investment in premises. The notice to the ~~Division~~Department shall include the following information:
- 1) the credit union's calculation of its total fixed asset investment authority;
 - 2) the estimated total cost of the planned fixed asset investment in premises;
 - 3) a general description of the planned fixed asset investment in premises.
- Notice under this subsection (c) is effective as of the date the notice is transmitted from the credit union.
- d) Credit unions with assets of less than \$1,000,000 seeking to invest in premises or credit unions with assets of \$1,000,000 or more seeking to invest in fixed assets in

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an amount that exceeds the lesser of 70% of retained earnings or 6% of total assets and not exempted from obtaining approval by subsection (b)(2)(B) of this Section must submit to the ~~Division~~~~Department~~ an application for approval. The application for approval must contain the following minimum supporting documentation:

- 1) why the purchase and/or lease is necessary to serve the credit union's members;
 - 2) details of the proposed transaction including:
 - A) location and full description of the fixed asset;
 - B) if a purchase of premises is involved, current valuation by an independent appraiser;
 - C) purchase price or lease details;
 - D) current owners and their relationship to the credit union or to any members of the credit union;
 - E) how the project will be financed;
 - F) if a purchase, lease or improvement of premises is involved, a summary of planned due diligence inspections to verify building, building line and use or occupancy restrictions; conditions and covenants on record; zoning laws and ordinances; easements for public utilities; and other matters pertinent to the transaction; and
 - G) evidence that the increase in operating expenses caused by the project can be supported after accounting for the current level of expenses and dividend commitments;
 - 3) the credit union's latest balance sheet, income statement and loan delinquency report;
 - 4) a certified copy of Board minutes that contain approval for the project.
- e) The ~~Division~~~~Department~~ shall respond to applications for approval of fixed asset investments as follows:

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- 1) The ~~Division~~Department shall inform the credit union applicant, in writing, of the date the letter of application was received.
- 2) Approval of applications shall be given in writing once it is determined by the ~~Division~~Department that the proposal will not adversely affect the credit union's financial position. The determination will be based on the past history, current financial condition, projections of the credit union, and whether the increase of operating expenses caused by the project can be supported after accounting for the current level of expense, dividend and reserve commitments.
- 3) An approval will state a dollar amount or percentage of retained earnings that may be invested in fixed assets by the credit union.
- 4) The ~~Division~~Department shall provide to credit union applicants written notification of action taken within 45 calendar days after receipt of the complete package of supporting documentation from the credit union. If the credit union does not receive written notification of the action taken within 45 calendar days after the date the complete package of supporting documentation was received by the ~~Division~~Department, the credit union may proceed with its proposed investment in fixed assets.
- f) A credit union that has received approval for a specific fixed asset transaction from the ~~Division~~Department prior to the date of promulgation of amendments to this Section shall continue to be eligible to consummate the transaction after such date of promulgation, without further ~~Division~~Department approval.
- g) In recording all transactions for fixed assets, generally accepted accounting principles will be followed (Wiley GAAP, published by John Wiley & Sons, 605 Third Avenue, New York NY 10158-0012, 2002 edition, no subsequent dates or editions).

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.100 Classes of Share and Special Purpose Share Accounts

- a) Any account which is not a common share account shall be considered as a class of share or special purpose share account as applicable. Section 38 of the Illinois Credit Union Act ~~[205 ILCS 305/38] (Ill. Rev. Stat. 1981, ch. 17, par. 4439)~~

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requires dividends to be declared and distributed ratably among holders of share accounts of the same class. Variable rate dividends can be declared on common shares with the dividend rates determined by share balance during the dividend period.

- b) A credit union may offer class(es) of shares and special purpose share account programs to its members provided that:
- 1) All specific offerings shall be approved by a resolution of the Board of Directors.
 - 2) Class of share and special purpose share accounts may be issued in the same forms of ownership as common share accounts.
 - 3) The par value of all such classes and special purpose accounts shall be the same as common shares.
 - 4) All such programs are described in writing and prominently displayed in the office(s) of the credit union. Classes shall be designated as Class ONE, TWO etc. All accounts must be made available to members on an equal basis.
 - 5) The terms and conditions of each class or special account must be fully described in writing to the member upon opening an account. Such description shall include how ownership of the share(s) is evidenced, the basis for the calculation and payment of dividends, any applicable penalties, any renewal options and the alternatives for receipt of dividend payments.
 - 6) The credit union's accounting records shall give detailed information on each class, which shall include general ledger accounts for each share account balance, the dividend expense and accrued dividends payable thereon. Consolidation of account detail on classes of shares for reporting on the financial statement is permitted.
 - 7) If a credit union's financial condition prevents payment of dividends on common share accounts, dividends may not be credited or paid on classes or special purpose shares for the same period. In this event, members with class of share accounts may withdraw shares without penalty or loss of dividends which have been paid or credited.

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(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.110 Share Drafts

- a) A credit union with total assets of \$1 million or less may, upon resolution of the Board of Directors, request ~~Departmental~~ permission of the Division to offer share drafts to their members provided that:
- 1) the total assets of the credit union are at a sufficient level to support the additional costs of the program;
 - 2) shares are insured by NCUA or other approved insurance programs;
 - 3) the credit union has full time management or is serviced by a center with full time management;
 - 4) has automated record keeping or is serviced by a center with such equipment; and
 - 5) the financial trends of the credit union, including, but not limited to, the loan delinquency, liquidity, reserves, expense and growth ratios, demonstrate the credit union's ability to manage safely a Share Draft Program.
- b) The Division ~~Department~~ will respond to all applications within 30 days ~~after~~ receipt. If the application is not approved, the disapproval will identify the financial and/or operation characteristics which must be improved before re-application can be made.
- c) A credit union with total assets greater than \$1 million may, upon resolution of the Board of Directors, offer share drafts to its members without ~~Departmental~~ permission of the Division.
- d) If dividends on the proposed share draft accounts are to be paid at a different rate or calculated on a basis different from existing common share accounts, then in accordance with Section 37 of the Illinois Credit Union Act [205 ILCS 305/37], the share drafts must be established as a class of share.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

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Section 190.120 Bond and Insurance Requirements

a) Bond:

- 1) The Board of Directors or liquidating agent of each credit union shall provide a fidelity bond in a form determined by the Director to meet the requirements of this Section and issued by a corporate surety authorized to do business in this State. The bond must provide coverage for the fraud and dishonesty of all employees, directors, officers, and committee members (see 205 ILCS 305/20(2), (3) and (4) and 30(13)) (Ill. Rev. Stat. 1983, ch. 17, pars. 4421(2), (3) and (4) and Ill. Rev. Stat. 1984 Supp., ch. 17, par. 4431(13)) and for losses caused by persons outside of the credit union due to theft, holdup, vandalism, and other criminal acts. Coverage for the faithful performance of duty is an option the Board of Directors may provide for all or selected employees, directors, officers, and committee members.
- 2) Each bond shall require the surety to give a minimum of ~~thirty~~(30) days written notice to the Credit Union Division of the Division Department prior to cancellation of any or all coverages set out in the bond.
- 3) Any form of rider or exclusion added to the Bond must have prior approval from the Director, to insure that at least the minimum bond is in effect and not compromised.
- 4) A copy of the Declaration Page describing the coverage of the Bond and any riders or exclusions are to be forwarded ~~ten~~(10) days prior to the anniversary date or a change in coverage to the Division Department by the surety. The Declaration Page must show at least the following: the form number of the Bond, the number of the Bond, the name of the credit union, the rating period, or anniversary date, the term of the Bond and the maximum limits of liability under the insuring clauses.

b) Bond Schedule:

- 1) The minimum principal amount of such bond shall be based on the total assets of the credit union according to the following schedule:

Total Assets

Minimum Coverage

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\$0 to \$10,000	Coverage equal to the Credit Union's assets.
\$10,001 to \$1,000,000	\$10,000 for each \$100,000 or fraction thereof.
\$1,000,001 to \$50,000,000	\$100,000 plus \$50,000 for each million or fraction thereof over \$1,000,000
\$50,000,001 to \$295,000,000	\$2,550,000 plus \$10,000 for each million or fraction thereof over \$50,000,000
Over \$295,000,000	\$5,000,000

- 2) Coverage in amounts in excess of the above minimum requirements may be purchased when the board of directors, in fulfilling their duty to provide adequate fidelity bond coverage, determines the additional coverage is needed. Minimum coverage limits must be extended to cover the additional risk when, aside from events which cannot be expected to recur, the total of cash on premise or in transit exceeds the minimum coverage limits. For purposes of this Section, the term cash shall include currency, coin, share drafts, checks, banknotes, Federal Reserve notes, revenue stamps, postage stamps and food stamps.
- 3) The board of directors shall review the bond coverage at least once each year to determine that the bond coverage is adequate and at a minimum, is in compliance with the above scheduled requirements. The board of directors may, consistent with the requirements of this Section, elect to purchase bond coverage subject to a deductible.
- 4) The maximum amount of deductibles allowed shall be based on the total assets of the credit union according to the following:

Assets	Maximum Deductibles
\$0 to \$100,000	No deductibles allowed

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\$100,001 to \$250,000	\$1,000
\$250,001 to \$1,000,000	\$2,000
Over \$1,000,000	\$2,000 plus $\frac{1}{1000}$ of total assets up to a maximum deductible of \$200,000.

- 5) No deductible shall exceed 10% of a credit union's Regular Reserve unless the credit union creates a segregated Contingency Reserve for the amount of the excess. The Reserve for Loan Losses account may not be considered part of the Regular Reserve when determining the maximum deductible. The deductible shall not exceed the maximum amounts listed in [subsection Section 190.120\(b\)\(4\)](#) unless approved by the Director in accordance with [subsection Section 190.120\(b\)\(6\)](#).
- 6) A deductible may be applied separately to one or more insuring clauses in a blanket bond. Deductibles in excess of those shown in this Section must have the written approval of the Director at least 20 days prior to the effective date of such deductibles. For purposes of this Section, the Director shall allow an excess deductible if the credit union will not be harmed thereby. In making that determination, the Director shall consider, but is not limited to, the adequacy of reserves, the current financial condition of the credit union, financial trends and the credit union's lending record.
- 7) The Director will require increased bond requirements for any credit union when the Director determines that current coverage is insufficient. In making that determination, the Director shall consider the factors listed in [subsection Section 190.120\(b\)\(6\)](#). The board of directors of the credit union must obtain additional coverage within 30 days after the date of written notice from the Director.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.130 Verification of Share and Loan Accounts

- a) The Supervisory Committee must make or cause to be made at least once each year a reasonable percentage verification of members' share and loan accounts. Except where prior written permission is given by the [DivisionDepartment](#), for

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good cause shown, the verification results are to be reported in the Supervisory Committee Report filed with the [DivisionDepartment](#). The verification shall be conducted by the Committee, or by a registered public accountant, under the supervision of the Committee.

- b) Verifications conducted by the Supervisory Committee.
 - 1) The Committee must test 100% of the accounts at least once every two years; however, the Committee may submit a modified program using generally accepted auditing standards for approval by the [DivisionDepartment](#). When conducting the verification, the Committee must establish the following controls:
 - A) The commencement of the verification must be on a surprise basis, including taking possession and control of such books and records or copies thereof as are necessary for the audit.
 - B) All work is to be done by the Supervisory Committee or its designated agents; all credit union staff, employees, and other directors shall not be involved, other than to explain exceptions.
 - C) General notice of the verification is to be publicized to the membership in the credit union [officesoffice\(s\)](#) and by other appropriate means.
 - D) Separate records of members' share and loan account trial balances are to be maintained by the Committee; the Committee must also maintain a separate list of members which is to be updated from the Board minutes for new and terminated members.
 - E) All responses and communications to the verifications by members must be to the Supervisory Committee or its agents.
 - F) All records supporting the verification are to be retained by the Supervisory Committee.
 - 2) Verification requests may be of either the positive kind, which requires a direct reply or attestation by the member as to the correctness or the balances, or the negative kind, which require replies only if the information listed is, in the opinion of the member, incorrect. Provided

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however, that the following accounts must be verified using the positive method:

- A) Inactive or dormant accounts – members' accounts which show no member initiated activity for at least ~~three~~(3) years.
 - B) Accounts with recent activity following a period of at least ~~three~~(3) years of dormancy.
 - C) Accounts that show unusually large share withdrawals.
 - D) Accounts that have delinquent loans.
 - E) Share and loan accounts closed or charged off since the last verification was conducted.
 - F) Accounts where negative requests are returned due to an inaccurate address.
 - G) Any other accounts with unusual or significant activity, or which, in the judgement of the Committee, should be done on a positive basis to verify the integrity of the negative verification requests.
- 3) All discrepancies reported should be resolved, and if known, the reason for the error reported to the Board, along with the results of the audit.
- c) Verification conducted by a CPA firm or individual registered with the State of [Illinois](#) to practice as a Public Accountant.
- 1) When the Supervisory Committee's audit is performed by a CPA or a Registered Public Accountant, either positive or negative verification requests may be used. The extent and nature of all tests is to be decided jointly by the Committee and the CPA or Registered Public Accountant.
 - 2) At the conclusion of the audit, a statement must be given which reflects the work performed and the responsibilities accepted by the firm or individual. This statement shall be signed by the person in charge of the audit, or by the person who accepts responsibility for the firm, and shall be attached to the audit report given to the Board of Directors.

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(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.140 Real Estate Lending

- a) A Credit Union with total assets greater than \$1 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 \$1 million	Lending Limits for Consumer Loans	0% of total assets
\$1 - 2.5 million	\$165,000*	25% of total assets
\$2.5 - 5 million	\$250,000*	30% of total assets
\$5 - 10 million	\$330,000	35% of total assets
\$10 - 30 million	\$580,000	40% of total assets
\$30 - 100 million	\$825,000	45% of total assets
Over \$100 million	\$1,000,000	50% 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 \$1 million may make home equity and second mortgage loans subject to the lending limits for consumer loans set forth in [Section 38 Ill. Adm. Code](#) 190.160. Credit Unions with assets under \$1 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 Director. Such approval is to be based upon the need of the members and the

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credit union's real estate lending record.

- e) The maximum limit on an individual loan by credit unions with assets greater than \$1 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 40 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 [IllinoisState](#) 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 income; a specific identification of the property; and an

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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), 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 borrower to obtain private mortgage insurance insuring the excess

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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.
- C) The terms of the transaction are not more favorable than they

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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, [IllinoisState](#) and Local Housing Authorities
 - E) Federal or [IllinoisState](#) Chartered Credit Unions, Banks, and Savings and Loan Associations
 - F) Residential mortgage licensees properly registered with and licensed by the Illinois Director of Banks and Real Estate
 - 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:
- A) The transferred assets have been put presumptively beyond the reach of the credit union transferring the assets and its creditors;
 - B) The purchaser has the right to pledge or exchange the assets; and
 - 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.

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- 3) 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 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.150 Reverse Mortgage

- a) "Reverse Mortgage" loans shall be granted by credit unions authorized to make real estate loans under Section 46(2) of the Illinois Credit Union Act [~~205 ILCS 305/46(2)~~] (~~Ill. Rev. Stat. 1981, ch. 17, par. 4447(2)~~) and for the purposes stated in Section 46(3) of the Illinois Credit Union Act (~~Ill. Rev. Stat. 1981, ch. 17, par. 4447(3)~~). Such loans must be on forms and in a manner consistent with all relevant statutory and regulatory authority including Section 38 Ill. Adm. Code 190.140.
- b) Such loans shall be based upon prudent lending and underwriting standards and procedures.
- c) No such loan including any existing lienslien(s) shall exceed 80% of the appraised value of the real estate.
- d) The total of all such loans may not, without prior approval of the Director, exceed one third of all real estate loans outstanding.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.165 Business Loans

- a) The following are definitions applicable in this Section.
- 1) "Associated Member" means any member with a common ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower.
- 2) A "Business Loan" is defined as any loan, line of credit, letter of credit (including any unfunded commitments), to a member of the credit union, for which the proceeds will be used to finance a commercial, corporate, other business investment property or venture, or agricultural purpose,

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including any interest the credit union obtains in a loan made by another lender to a member or nonmember of the credit union pursuant to Section 51 of the Act if the loan would constitute a business loan if made by the credit union, except that the effect of any interest obtained in nonmember business loans on a credit union's aggregate member business loan limit will be as set forth in subsection (g)(2)(D).

- 3) "Net Worth" means retained earnings as defined under GAAP. Retained earnings include regular reserves, undivided earnings and any other appropriations designated by management or regulatory authorities or Surplus, excluding the Allowance for Loan Losses Accounts.
 - 4) "Net Member Business Loan Balance" means the outstanding loan balance plus any unfunded commitments, reduced by any portion of the loan that is secured by shares in the credit union, or by shares or deposits in other financial institutions, or by a lien in the member's primary residence, or insured or guaranteed by any agency of the federal government, a state or any political subdivision of such state, or subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of such state, or sold as a participation interest without recourse and qualifying for true sales accounting under generally accepted accounting principles.
 - 5) "Primary Residence" means the address at which one resides.
 - 6) "Immediate Family Member" means a spouse or other family member living in the same household.
- b) Nothing in this Section shall be applicable to:
- 1) loans fully secured by shares in the credit union or deposits in other financial institutions.
 - 2) net member business loan balances in an aggregate amount of \$50,000 or less to one member or associated member for which the proceeds may be used for a commercial business or agricultural purpose.
 - 3) loans to credit union service organizations (CUSO) as defined under Section 190.5 of this Part.

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- 4) loans for any one to four family owner-occupied parcel of real estate as long as the borrower/owner maintains the subject property as his primary residence.
 - 5) loans fully secured or fully guaranteed by, or subject to an advance commitment to purchase in full by, an agency of the federal government or of a state or any of its political subdivisions.
 - 6) loans granted by a credit union to another credit union.
- c) Prohibited Activities
- 1) A credit union may not grant a member business loan to the following:
 - A) Chief executive officer;
 - B) Any assistant chief executive officers;
 - C) Chief financial officer;
 - D) Any associated member or immediate family member of anyone listed in subsections (c)(1)(A) through (c)(1)(C).
 - 2) A credit union may not grant a member business loan to a compensated director unless the board of directors approves granting the loan and the compensated director is recused from the decision making process.
 - 3) Equity agreements/joint ventures. A credit union may not a grant a member business loan if any additional income received by the credit union or senior management employees is tied to the profit or sale of the business or commercial endeavor for which the loan is made.
- d) Credit unions with assets greater than \$30 million may make business loans in accordance with specific lending policies which shall address, but not be limited to:
- 1) Types of business loans to be made within a designated trade area.
 - 2) A requirement to analyze and document the ability of the borrower to repay the loan consistent with appropriate underwriting and due diligence

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standards, which also addresses the need for periodic financial statements, credit reports, and other data when necessary to analyze future loans and lines of credit, such as, borrower's history and experience, balance sheet, cash flow analysis, income statements, tax data, environmental impact assessment, and comparison with industry averages, depending upon the loan purpose.

- 3) Expertise Requirement
 - A) Provisions for ensuring the utilization of services of experienced personnel with at least 2 years of direct experience with the type of business loans the credit union will be making. A credit union may comply with this experience requirement without hiring staff as long as the credit union ensures that the expertise is available. For example, a credit union may use the services of a CUSO, an employee of another credit union, an independent contractor, or other third parties. However, the actual decision to grant a loan must reside with the credit union.
 - B) Any third party used by a credit union to meet the requirements of subsection (d)(3)(A) must be independent from the transaction and a credit union is prohibited from using a third party to meet the requirements of this subsection (d) if the credit union is purchasing a business loan, or a participating interest in a business loan, from the third party responsible for reviewing the loan, or if the third party has an interest in the collateral securing a business loan which the third party is responsible for reviewing, with the following exceptions:
 - i) The third party may provide a service to the credit union related to the transaction, such as loan servicing;
 - ii) The third party may provide the requisite experience to the credit union and purchase a loan or a participation interest in a loan originated by the credit union that the third party reviewed; or
 - iii) A credit union may use the services of a CUSO that otherwise meets the requirements of subsection (d)(3)(A) even though the CUSO is not independent from the

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transaction, provided the credit union has a controlling financial interest in the CUSO as determined under generally accepted accounting principles.

- 4) The maximum amount of secured and unsecured business loans to any one member or group of associated members, provided it does not exceed the limits as set forth in subsections (f) and (h).
 - 5) The aggregate amount of the credit union assets in relation to net worth that will be invested in business loans, provided credit unions subject to section 107A of the Federal Credit Union Act (12 USC 1757a) may not exceed the limit set forth in subsection (g).
 - 6) The maximum amount of credit union assets in relation to net worth that will be allotted to given types of business loans.
 - 7) Collateral requirements, including, but not limited to:
 - A) Loan-to-value ratios;
 - B) Determination of value;
 - C) Determination of ownership;
 - D) Steps to secure various types of collateral; and
 - E) How often the credit union will re-evaluate the value and marketability of collateral.
 - 8) Defined interest rates and defined maturities of business loans.
 - 9) Loan monitoring, servicing, and follow-up procedures, including collection procedures.
 - 10) Identification of those individuals prohibited from receiving member business loans.
- e) Business loans shall not be granted by credit unions with assets of \$30 million or less unless the [Division Department of Financial Institutions](#) has approved a credit union's request for a business loan amendment to its bylaws. The request must be

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accompanied with specific lending policies including but not limited to the criteria listed in subsection (d). All approval of requests shall be based upon the history of the credit union, current financial condition and the adequacy of applicable operating policies as documented in the [Division's Department's](#) statutory or special examination. Evaluation of the history, current financial condition, and operating policies of the credit union will include, but not be limited to, the credit union's capital adequacy, asset quality, management policies, earnings, and liquidity. These factors must be reflective of a safe and sound financial operation (in accordance with 205 ILCS 305/8, 9, 36 and 61).

- f) The net member business loan balances of any one member or group of associated members shall not exceed 15% of the credit union's net worth. Credit unions seeking an exception to this limit must request a waiver in writing. The maximum limit on a member business loan is in addition to the secured and unsecured limits established in Sections 190.160 and 190.140, 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.
- g) Aggregate Member Business Loan Limit
 - 1) The aggregate limit on the net member business loan balances of a credit union subject to section 107A of the Federal Credit Union Act (12 USC 1757a), excluding any business loans exempted from the aggregate member business loan limit by section 107A of the Federal Credit Union Act or Part 723 of the National Credit Union Administration Regulations (12 CFR 723, 2004, no subsequent dates or editions), is the greater of:
 - A) 1.75 times the credit union's net worth or 12.25% of the credit union's assets, whichever is less; or
 - B) the aggregate member business loan limit authorized by section 107A of the Federal Credit Union Act.
 - 2) Exceptions to the aggregate loan limit for a credit union include:
 - A) Credit unions that have a low-income designation or participate in the Community Development Financial Institutions program;
 - B) Credit unions that were chartered for the purpose of making member business loans and can provide documentary evidence

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(such evidence includes but is not limited to the original charter, original bylaws, original business plan, original field of membership, board minutes and loan portfolio).

- C) Credit unions that have a history of primarily making member business loans, meaning that either member business loans comprise at least 25% of the credit union's outstanding loans (as evidenced in any call report or any equivalent documentation including financial statements) or member business loans comprise the largest portion of the credit union's loan portfolio (as evidenced in any call report or any equivalent documentation including financial statements). For example, if a credit union makes 23% member business loans, 22% first mortgage loans, 22% new automobile loans, 20% credit cards loans, and 13% total other real estate loans, then the credit union meets this exception.
- D) If the interest held by a credit union in any loans made by another lender to a nonmember of the credit union would constitute a business loan if made to a member of the credit union, the total of the interest held in such nonmember business loans plus the credit union's net member business loan balances must not exceed the aggregate limit set forth in subsection (g)(1), unless the credit union has requested approval from the ~~Division~~Department, by submitting an application that:
- i) Includes a current copy of the credit union's member business loan policies;
 - ii) Confirms that the credit union is in compliance with all other aspects of this Section;
 - iii) States the credit union's proposed limit on the total amount of nonmember business loan interests that the credit union may acquire if the application is granted; and
 - iv) Attests that the acquisition of an interest in nonmember business loans is not being used, in conjunction with one or more other credit unions, to have the effect of trading member business loans that would otherwise exceed the aggregate limit.

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3) Request for Exception

A) An exception under subsection (g)(2)(A) is effective upon written notice to the Division ~~Department~~ of such designation or participation.

B) An exception under subsection (g)(2)(B) or (g)(2)(C) must be submitted in writing to the Division ~~Department~~, including documentation demonstrating that the credit union meets the criteria for the exception.

i) Approval of an exception shall be given in writing to the credit union.

ii) The exception does not expire until revoked for safety and soundness reasons by the Division ~~Department~~.

iii) The Division ~~Department~~ shall notify the respective Region of the NCUA of the decision on the request.

h) Collateral

1) Unless the Division ~~Department~~ grants a waiver, all member business loans, except those made under subsections (h)(2), (3) and (4), must be secured by collateral. The maximum loan to value (LTV) ratios for all liens shall not exceed 80%, unless the loan amount in excess of 80% is covered through private mortgage or equivalent insurance, or is insured or guaranteed by or subject to an advance commitment to purchase by any agency of the federal government or a state or its political subdivisions, but in no case shall the LTV exceed 95%.

2) Unsecured member business loans may be made if:

A) The credit union has a current net worth of 7% or, if applicable, meets its risk based net worth ratio, whichever is higher;

B) The aggregate of the unsecured outstanding member business loans to any one member or group of associated members does not

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exceed the lesser of \$100,000 or 2.5% of the credit union's net worth; and

- C) The aggregate of all unsecured outstanding member business loans does not exceed 10% of the credit union's net worth.
- 3) Credit card line of credit programs offered to nonnatural person members, or guaranteed by nonnatural persons, that are limited to routine purposes normally made available under those programs are exempt from the collateral requirement of subsections (h)(1) and (2).
- 4) Credit unions may make vehicle loans under this Section without complying with the loan-to-value ratios in this Section, provided that the vehicle is a car, van, pick-up truck, or sports utility vehicle and not part of a fleet of vehicles.
- i) Construction Loans
Unless the ~~Division~~Department grants a waiver, loans granted for the construction or development of commercial or residential property are subject to the following additional requirements:
 - 1) The aggregate of all construction and development net member business loan balances must not exceed 15% of the credit union's net worth. The following loans may be excluded from the calculation of the aggregate:
 - A) loans made to finance the construction of a single-family residence if a prospective homeowner has contracted to purchase the property; and
 - B) a loan to finance the construction of one single-family residence per member-borrower or group of associated member-borrowers, irrespective of the existence of a contractual commitment from a prospective homeowner to purchase the property;
 - 2) The borrower must have a minimum of 25% equity interest in the project being financed, the value of which is determined by the market value of the project at the time the loan is made, except that the loan to value requirements of subsection (h) shall apply in lieu of this equity interest requirement in the case of loans made to finance the construction of a single-family residence if a prospective homeowner has contracted to

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purchase the property and in the case of one loan to a member-borrower or group of associated member-borrowers to finance the construction of a single-family residence, irrespective of the existence of a contractual commitment from a prospective homeowner to purchase the property; and

- 3) The funds may be released only after on-site, written inspections by qualified personnel and according to a preapproved draw schedule and any other conditions as set forth in the loan documentation.

- j) Request for Waiver

- 1) Credit unions may request a waiver for a category of business loans in the following areas:

- A) Maximum secured and unsecured loan amounts to one borrower or associated group of borrowers under subsections (f) and (h);
- B) Maximum aggregate unsecured member business loan limit under subsection (h)(2);
- C) Collateral requirements under subsection (h);
- D) The aggregate amount of construction loans and the minimum equity interest in construction loans under subsection (i); and
- E) Any appraisal requirements imposed by Part 190 with respect to loans secured by real estate.

- 2) A request for a waiver must be submitted in writing to the Division~~Department~~. The waiver request must contain the following:

- A) A copy of the credit union's business lending policy;
- B) The waiver sought;
- C) An explanation of the higher limits sought (if applicable);
- D) Documentation supporting the credit union's ability to manage this activity; and

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- E) An analysis of the credit union's prior experience in making member business loans, including the credit union's history of loan losses and delinquency, volume and cyclical or seasonal patterns, diversification, concentrations of credit to one borrower or group of borrowers in excess of 15% of net worth, underwriting standards and practices, types of loans grouped by purpose and collateral, and the qualifications of personnel responsible for underwriting and administering member business loans.
- 3) The DivisionDepartment shall consider standard criteria when determining whether to grant a waiver requested by a credit union as provided in subsection (j)(1). The criteria include but are not limited to:
- A) The two most recent DivisionDepartmental examinations;
 - B) The credit union's reserve/equity position;
 - C) The credit union's current delinquency and loan loss trends; and
 - D) The credit union's Business Lending Policy and Procedures.
- 4) The DivisionDepartment shall respond to requests for waivers as follows:
- A) The DivisionDepartment shall inform the credit union in writing of the date the written request for waiver was received.
 - B) Approval of waivers shall be given in writing within 45 calendar days from receipt of the waiver request and supporting documents listed in subsection (j)(2), if it is determined by the DivisionDepartment that the waiver will not adversely affect the credit union's financial position.
 - C) If a waiver approved by the DivisionDepartment must also be approved by the National Credit Union Administration (NCUA), the DivisionDepartment shall forward the waiver request and supporting documents to the NCUA Regional Director and provide the credit union with written notice of the date the request was forwarded.

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- D) If a waiver request does not require NCUA approval, the credit union may assume approval of the waiver request if it does not receive notification within 45 days after the date the request was received by the Division~~Department~~.
- k) Recordkeeping Requirements
Business loans must be separately identified in a credit union's records and separately identified in the aggregate on a credit union's financial reports.
- l) Allowance for Loan Losses for Business Loans
- 1) Allowance for Loan Losses for Business Loans will be determined and accounted for by the credit union as follows:
- A) Substandard Loans – A substandard loan is one that is inadequately protected by the current sound worth and paying capacity of the obligor or of the collateral pledged. Loans classified substandard have a well-defined weakness or weaknesses that jeopardize the liquidation of the debt. They are characterized by the distinct possibility that the credit union will sustain some loss if the deficiencies are not corrected. Loans listed in this category shall generally be listed in a range from zero to under 50% potential loss.
- B) Doubtful Loans – A loan classified doubtful has all the weaknesses inherent in a loan classified substandard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions, and values, highly questionable and improbable. The possibility of loss is extremely high, but because of certain important and reasonable specific pending factors that may work to the advantage and strengthening of the loan, its classification as an estimated loss is deferred until a more exact status may be determined. Pending factors include: proposed merger, acquisition, or liquidation actions; capital injection; perfecting liens on collateral; and refinancing plans. Loans in this category shall be listed at a minimum 50% potential loss.
- C) Loss Loans – Loans classified loss are considered uncollectible and of such little value that their continuance as loans on the credit

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union balance sheet is not warranted. This classification does not necessarily mean that the loan has absolutely no recovery or salvage value, but rather, it is not practical or desirable to defer writing off the asset even though partial recovery may occur in the future. Loans in this category shall be listed at 100% potential loss.

- D) Loans may be excluded from the "loss loans" category and classified as either substandard or doubtful if there is evidence of collectibility. Evidence of collectibility shall include without limitation the following collection activities and remedies:
- i) Execution and filing of an enforceable reaffirmation agreement on the loan in a Chapter 7 bankruptcy (11 USC 701 et seq.) proceeding prior to completion of the ~~Division's~~[Department's](#) loan analysis in any statutory examination of the credit union.
 - ii) Receipt of payments on the loan in a Chapter 13 bankruptcy (11 USC 1301 et seq.) within 180 days after the confirmation of the plan; or, if the plan stipulates repayment of the loan in full but payments have not yet been disbursed to the credit union, the credit union has determined from the Trustee that plan payments are being made on a timely basis to the Trustee.
 - iii) Receipt of payments on the loan in a Chapter 11 bankruptcy reorganization (11 USC 1101 et seq.) or Chapter 12 bankruptcy family farm reorganization (11 USC 1201 et seq.) within 180 days after the confirmation of the plan.
 - iv) Voluntary repayment of the loan pursuant to ~~section~~[Section](#) 524(f) of the federal Bankruptcy Code (11 USC 524(f)).
 - v) Collection of the loan pursuant to repossession of collateral without judicial process, or by replevin, detinue, forcible entry and detainer or mortgage foreclosure proceedings.

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- vi) Collection of the loan pursuant to post-judgment enforcement remedies, including wage deduction, garnishment and turnover orders entered in citation to discover assets supplementary proceedings.
 - vii) The entry of a judgment pay plan order providing for repayment of the loan in a judicial proceeding.
 - viii) Documented evidence of repayment of that portion of the loan covered by collateral protection or other insurance policies.
 - ix) Documentation evidence of periodic payments on a consistent basis in an amount sufficient to retire the loan balance in a reasonable time.
- 2) Non-delinquent loans may be classified in the above categories by the ~~Division~~Department, dependent upon an evaluation of factors, including, but not necessarily limited to, the adequacy of the credit union's analysis and documentation of the loan application, and the credit union's collateral requirements. Subsection (d)(2) contains analysis and documentation requirements.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.180 Investments

The Board of Directors of a credit union shall use the following procedures in managing and investing funds not being used for loans to members.

- a) The Board must develop a written investment policy which includes at a minimum:
 - 1) ~~persons~~person(s) authorized to take investment actions and the kinds of investments permitted the designated person or committee;
 - 2) limits by amount and term of the investments;
 - 3) procedure for approval of all ~~broker~~broker(s) or advisor relationships~~advisor(s) relationship~~;

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- 4) procedure for safekeeping of securities.
- b) All investments are to be recorded on the books and records in accordance with generally accepted accounting principles and so as to enable the Division Department to readily ascertain the financial condition of the credit union.
- c) Investments are limited to the direct purchase of securities listed in Section 59 of the Act (~~Ill. Rev. Stat. 1987, ch. 17, par. 4460~~), and common trust or mutual funds whose investment authority is limited solely to securities and investments listed in Section 59 of the Illinois Credit Union Act (~~Ill. Rev. Stat. 1987, ch. 17, par. 4460~~).
- d) Credit unions may invest in privately issued collateralized mortgage obligations (CMOs) – a CMO is a corporate bond secured by mortgage pass-through certificates of the Government National Mortgage Association or the Federal National Mortgage Association – provided such obligations receive the highest rating (either AAA or AA) by Standard and Poors rating or another comparable rating service.
- e) Credit unions are not authorized to engage in speculative investment activities or transactions including but not limited to:
 - 1) short sales of securities;
 - 2) adjusted trades;
 - 3) standby commitments;
 - 4) cash forward agreements in excess of 120 days from the trade date;
 - 5) futures contracts; or
 - 6) the buying and carrying of securities on margin through the use of borrowed funds.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.190 Liquidation

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A credit union may enter liquidation through actions initiated by its Board of Directors to voluntarily dissolve or by actions initiated by the Director of [the Division of Financial Institutions](#) to involuntarily dissolve and be liquidated by a Liquidating Agent of one person or a committee under the following procedures:

a) Voluntary Liquidation:

- 1) After completing the requirements in Section 62 of the Illinois Credit Union Act (~~Ill. Rev. Stat. 1981, ch. 17, par. 4463~~), the Liquidating Agent, must furnish a fidelity bond in compliance with 38 Ill. Adm. Code 190.120.
- 2) Upon receipt and approval of the fidelity bond, the Director shall issue a Certificate of Voluntary Dissolution attesting to the compliance with Section 62 of the Illinois Credit Union Act (~~Ill. Rev. Stat. 1981, ch. 17, par. 4463~~), stating the [namesname\(s\)](#) of the Liquidation Agent, and authorizing the taking of possession and control of the books, records and assets of the credit union for the purpose of conserving and collecting the assets, paying all indebtedness and distributing the remaining assets to the membership. Certified copies of the Certificate of Voluntary Dissolution shall be furnished to the Liquidating Agent for his use in securing access to the credit union's funds in [depositoriesdepository\(ies\)](#), withdrawal of investments or for any other purpose to carry out the liquidation.

b) Involuntary Liquidation:

- 1) Under the provisions of Section 61 and Section 62 of the Illinois Credit Union Act (~~Ill. Rev. Stat. 1981, ch. 17, par. 4462-4463~~), the Director shall issue to the credit union by certified mail, with a copy to each director, an order for Possession and Control for purpose of liquidation.
- 2) A Liquidating Agent (person or committee) shall be appointed by the Director to carry out liquidation under the direction and control of the Director. Except where the Liquidating Agent is the NCUA or other insurer or agent under the share insurance interest, the procedures listed in [subsection Section](#) (c) ~~of this Rule~~ shall be followed.

c) The liquidation, whether voluntary or involuntary, shall be under the direction of the Director and shall proceed in the following manner:

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- 1) The Certificate shall be promptly filed at the County Recorder's office in the County in which the main office of the credit union is located and the recording information shall be forwarded to the ~~Division~~Department.
- 2) An itemized inventory, in duplicate, as of the date of the Certificate listing the following shall be prepared to include:
 - A) all assets;
 - B) all known liabilities;
 - C) a list of all members accounts' by name, address, account numbers, share and loan balances, notes payable on file, and security offered;
 - D) a balance sheet as of the date of the Certificate;
 - E) a Statement of Income and Expenses as of the date of the Certificate;
 - F) the name and address of all ~~depositories~~depository(ies) including the credit union's account ~~numbers~~number(s) and balance.
- 3) A signed and dated copy of the items listed under ~~subsections~~(c)(1) and (c)(2) ~~of this Rule~~ shall be forwarded to the ~~Division~~Department. One copy of each of the above items is to be retained by the Liquidating Agent.
- 4) The books and records are to be kept posted currently throughout the liquidation.
- 5) All funds received shall be promptly deposited in the credit union's ~~depositories~~depository(ies). The Director shall approve a change in ~~depositories~~depository(ies) upon receipt of written request from the agent stating the reason for the change.
- 6) All disbursement of funds shall have prior approval of the ~~Division~~Department and be in accordance with the priority established in Section 62(7) of the Illinois Credit Union Act (~~Ill. Rev. Stat. 1981, ch. 17, par. 4463(7)~~). The ~~Division~~Department shall approve in writing disbursement of funds during liquidation upon written request from the liquidating

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agent. Each request must contain a current financial statement and a total dollar amount to be distributed prorata to the share-holders.

- 7) Monthly reports, consisting of a balance sheet, statement of income and expense, and an analysis of funds received and expended, shall be prepared on forms furnished by the ~~Division~~ Department as of each month's end and forwarded to the ~~Division~~ Department on or before the 15th of the subsequent month.
- 8) An initial report on all accounts turned over to an attorney and/or collection agency for collection is to be forwarded to the ~~Division~~ Department with subsequent periodic reports showing collection activity on these accounts.
- 9) Subject to the prior approval of the Director, the Liquidating Agent may prosecute and defend all suits or intervene and execute all necessary deeds, releases or other instruments necessary to consummate any sale of real estate or personal property, or compromise any debt or claim to same effect as if the instruments were executed by the officers of the credit union. The agent shall request approval, in writing, detailing the specific instances. The Director shall base his approval on maximizing the return of funds and protecting the interests of the shareholders.
- 10) Compensation paid for the Liquidating Agent's services shall be determined by the Director, so as to maximize the return of shareholder's funds and to provide reasonable compensation for the professional services required.
- 11) All expenses incurred in the liquidation shall be paid out of the funds of the credit union.
- 12) Completion of the liquidation shall be in compliance with provisions of Section 62 of the Illinois Credit Union Act (~~Ill. Rev. Stat. 1981, ch. 17, par. 4463~~).

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.200 Conversion of Charter

- a) Conversion from a State of Illinois chartered credit union to a credit union

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chartered by the National Credit Union Administration or by a state regulatory authority of credit unions of another state shall be authorized subject to the following requirements:

- 1) The proposal for the conversion of charter is approved by resolution of the Board of Directors.
- 2) Written notification is given of the intent to convert to the Director ~~of Financial Institutions~~ at least 30 days prior to the mailing to the members of the Notice of Meeting at which the question of conversion is to be voted.
- 3) Evidence is furnished to the Director ~~of Financial Institutions~~ that the National Credit Union Administration or the state regulatory authority for credit unions in the other state is agreeable to the conversion proposal.
- 4) The conversion proposal is approved by $\frac{2}{3}$ of the members present or voting. Notice of the meeting must be given in accordance with Section 19(1) of the Illinois Credit Union Act (~~Ill. Rev. Stat. 1981, ch. 17, par. 4420(1)~~) and include:
 - A) the time, place, and purpose of the meeting;
 - B) a brief and accurate statement of the reasons for the against the proposed conversion including any effects it could have on the shareholdings of members and the policies and practices of the credit union;
 - C) a ballot and details of how the ballot may be voted.
- 5) Proxy voting is not permitted. Ballots will be distributed or mailed to the members and the returned ballots shall be counted with those ballots of members present at the meeting. Ballots must be distributed or mailed at least 7 days before the date of the meeting. All ballots postmarked on or before the date of the meeting shall be included in the final vote computation.
- 6) A notarized report attesting to the accuracy of the voting shall be forwarded to the Director within 10 days after the meeting containing the following information:

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- A) date of mailing and/or posting notice of meeting;
 - B) date of members meeting or any adjourned meetings;
 - C) number of members;
 - D) number of members present at meeting;
 - E) number of members voting for the proposal in person at the meeting and the number of members not at the meeting voting for the proposal by ballot.
- 7) If $\frac{2}{3}$ of the voting members approve the proposal, and the appropriate federal or other state regulatory agency approves the conversion, a request to convert the charter shall be sent within 10 days of the members' meeting to the Director. If the credit union is not subject to any formal supervisory restraints or other supervisory proceedings and if the conversion is in the best interests of the members, the Director shall issue a Certificate of Conversion approving the change of chartering authority.
- 8) The credit union shall return its Illinois charter and Articles of Incorporation to the Director and shall record the Certificate of Conversion in the County Recorder's Office in the Illinois county where the credit union's office is located and forward the recording information to the Director ~~of Financial Institutions~~. The converted credit union shall be merely a continuation of the State of Illinois credit union under a new name and new jurisdiction and such revision of its corporate structure as is necessary for its proper operation under the new jurisdiction. The effective date of the charter conversion will be the date that the Certificate of Conversion is recorded at the County Recorder's Office.
- b) Conversion from a federally chartered credit union or from a credit union chartered by another state to a State of Illinois chartered credit union shall be authorized subject to the following requirements:
- 1) complying with all requirements of the Federal Credit Union Act or the applicable Act of the state under which it is organized;
 - 2) filing with the Director ~~of Financial Institutions~~ evidence of that

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compliance which shall include a copy of the most recent examination by the regulatory agency, correspondence on exceptions noted, and a statement that the credit union is not subject to any formal supervisory restraint or proceeding which would be circumvented by the conversion;

- 3) filing with the Director ~~of Financial Institutions~~, Articles of Incorporation and By-laws as required by Section 2 of the Illinois Credit Union Act (~~Ill. Rev. Stat. 1981, ch. 17, par. 4403~~).
- 4) The Director may require that an examination of the credit union be conducted by the ~~Division Department~~ to verify the financial and operating condition of the credit union. He or she shall base his or her decision on the recency of the last examination, the nature of the exceptions noted, and the scope of the examination. A fee may be assessed for such examination not to exceed the limits as set forth either in Section 12 of the Illinois Credit Union Act (~~Ill. Rev. Stat. 1981, ch. 17, par. 4413~~) or Section 38 Ill. Adm. Code 190.50 as appropriate.
- 5) Upon receipt of the above, the Director shall determine if all requirements for conversion of the credit union have been met, and if affirmative, the Director shall issue a Certificate of Approval which must be filed as provided under Section 2(4) of the Illinois Credit Union Act (~~Ill. Rev. Stat. 1981, ch. 17, par. 4403(4)~~). The effective date of the conversion will be the date, after the Certificate of Approval is recorded, that it ceases to be a federal credit union or a credit union chartered by another state.
- 6) The converted credit union shall be vested with all of the assets and is responsible for all of the obligations of its predecessor.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

SUBPART B: HIGH RISK HOME LOANS

Section 190.500 Definitions

"Approved Credit Counselor" means a credit counselor as approved by the Director of the ~~Division Department of Financial Institutions~~.

"Good faith" means honesty in fact in the conduct of the transaction.

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"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded transaction, not otherwise included in 12 CFR 226.4.

"Subject loan" is the term used to describe any loan to which this Subpart applies pursuant to Section 190.505.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.565 Counseling Prior to Perfecting Foreclosure

- a) In the event that a subject loan becomes delinquent by more than 30 days, the lender shall send a notice advising the borrower of the availability of consumer credit counseling.
- b) The notice required under subsection (a) shall, at a minimum, include the following language notice:

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE [DIVISION](#)~~DEPARTMENT~~ OF FINANCIAL INSTITUTIONS AT 1-888-298-8089."

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- c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.
- d) If within the 30-day period provided under subsection (c) the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.
 - 1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. The lender or its agent, the approved consumer credit counselor, and the borrower may modify the debt management plan.
 - 2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.
- e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.
- f) This Section applies only to subject loans as defined by Section 190.500.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.580 Third Party Review

In the case of each subject loan, upon approval of the loan application, the lender shall advise the borrower in writing of the opportunity to seek independent review of the loan terms in order to determine affordability of the loan. When and if the General Assembly appropriates adequate funding to the Division Department of Financial Institutions specifically for this program:

- a) Every borrower who chooses to participate in the independent review provided in this Subpart shall submit information requested on the worksheets outlined in Appendix A and B.

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- b) The ~~Division~~ ~~Department~~ shall provide the borrower with a review of the worksheets and inform the borrower of the amount the borrower has available for a monthly mortgage payment based upon the borrower's budget. The ~~Division~~ ~~Department~~ shall also provide a projection of the payments required under the terms of the loan based upon a review of loan information pertaining to balloon payments, adjustable interest rates and other items disclosed by the loan documents affecting the amount of payment.
- c) The borrower shall receive a copy of the completed forms and shall sign the forms acknowledging receipt. A copy of the written and signed forms shall be submitted to the lender prior to the closing of the loan and shall become a part of the permanent file for the loan.

If, based upon the review, the borrower determines that the loan is not in his or her best economic interest, the reviewer shall so note this in the completed forms sent to the lender. This determination shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Amended at 30 Ill. Reg. 18919, effective December 4, 2006)

SUBPART C: PAYDAY LOANSSection 190.600 Definitions

"Payday Loan" or "loan" means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet or telephone, in which:

A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts one or more checks dated subsequent to the date written and agrees to hold them for deposit; or

A lender accepts one or more authorizations to debit a consumer's bank account; or

A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment.

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"PLRA" means the Payday Loan Reform Act [815 ILCS 122]. Credit Unions are expressly exempt from the provisions of the PLRA.

(Source: Added at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.601 Purpose and Scope

This Subpart applies to credit unions as defined in Section 190.2.

(Source: Added at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.605 Applicability of Rule

This Subpart shall apply only to Payday Loans made by a credit union. Products and services offered by a credit union that are not offered by lenders governed by the PLRA shall not be subject to this Part.

(Source: Added at 30 Ill. Reg. 18919, effective December 4, 2006)

Section 190.610 Issuance of Payday Loans by Credit Unions

- a) A credit union making a payday loan shall satisfactorily address all safety and soundness considerations identified by the Division in its examination and supervision of the credit union. Safety and soundness considerations include, without limitation:
- 1) Risk-management practices for payday loan activities, particularly with regard to concentrations of payday loans;
 - 2) Capital adequacy, depending on the level and volatility of risk;
 - 3) Allowance for loan losses to ensure the allowance is adequate to absorb estimated credit losses within the payday loan portfolio;
 - 4) Classification of payday loans, given the unsecured nature of the credit and weakness of repayment capacity inherent in payday loans; and
 - 5) The establishment and maintenance of extension, deferral, renewal and rewrite standards consistent with the PLRA.

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- b) In the event the Division determines the credit union's management of safety and soundness risks relating to its payday loan portfolio is deficient, the Division may initiate informal or formal corrective enforcement action, pursuant to the applicable administrative enforcement provisions set forth in the Illinois Credit Union Act and [this Part](#).

(Source: Added at 30 Ill. Reg. 18919, effective December 4, 2006)

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Banks Engaging in Payday Lending
- 2) Code Citation: 38 Ill. Adm. Code 365
- 3) Section Numbers: Adopted Action:
365.10 New Section
365.20 New Section
365.30 New Section
365.40 New Section
- 4) Statutory Authority: Payday Loan Reform Act [815 ILCS 122] and Illinois Credit Union Act [205 ILCS 305]
- 5) Effective Date of Rules: December 4, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: June 23, 2006, at 30 Ill. Reg. 10689
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: The Payday Loan Reform Act requires the Department to promulgate regulatory standards that address a number of business practices concerning payday loans.

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

Barb Smith
Rules Coordinator
Department of Financial and Professional Regulation
Division of Professional Regulation
320 West Washington Street, 3rd Floor
Springfield IL 62786

217/785-0813
Fax: 217/557-4451

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

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NOTICE OF ADOPTED RULES

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 365

BANKS ENGAGING IN PAYDAY LENDING

Section

365.10	Purpose and Scope
365.20	Definitions
365.30	Applicability of Rule
365.40	Issuance of Payday Loans by Banks

AUTHORITY: Implementing and authorized by Section 48 of the Illinois Banking Act [205 ILCS 5/48].

SOURCE: Adopted at 30 Ill. Reg. 18985, effective December 4, 2006.

Section 365.10 Purpose and Scope

This Part applies to all banks chartered under provisions of the Illinois Banking Act [205 ILCS 5].

Section 365.20 Definitions

"Bank" means a state-chartered bank chartered under the provisions of the Illinois Banking Act [205 ILCS 5].

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

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

"Payday Loan" or "loan" means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone, in which:

A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts

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one or more checks dated subsequent to the date written and agrees to hold them for deposit; or

A lender accepts one or more authorizations to debit a consumer's account; or

A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment.

"PLRA" means the Payday Loan Reform Act [815 ILCS 122]. Banks are expressly exempt from the provisions of the PLRA.

Section 365.30 Applicability of Rule

This Part shall apply only to payday loans made by a bank. Products and services offered by a bank that are not offered by lenders governed by the PLRA shall not be subject to this Part.

Section 365.40 Issuance of Payday Loans by Banks

- a) A bank making a payday loan shall satisfactorily address all safety and soundness considerations identified by the Division in its examination and supervision of the bank. Safety and soundness considerations include, without limitation:
 - 1) Risk-management practices for payday loan activities, particularly with regard to concentrations of payday loans;
 - 2) Capital adequacy, depending on the level and volatility of risk;
 - 3) Allowance for loan losses to ensure the allowance is adequate to absorb estimated credit losses within the payday loan portfolio;
 - 4) Classification of payday loans, given the unsecured nature of the credit and weakness of repayment capacity inherent in payday loans; and
 - 5) The establishment and maintenance of extension, deferral, renewal and rewrite standards consistent with the PLRA.
- b) In the event the Division determines the bank's management of safety and soundness risks relating to its payday loan portfolio is deficient, the Division

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may initiate corrective enforcement action, as authorized under Section 48 of the Illinois Banking Act.

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Savings and Loan Act of 1985

2) Code Citation: 38 Ill. Adm. Code 1000

3) Section Numbers: Adopted Action:

1000.110	Amendment
1000.120	Amendment
1000.130	Amendment
1000.141	Amendment
1000.142	Amendment
1000.150	Amendment
1000.160	Amendment
1000.220	Amendment
1000.410	Amendment
1000.510	Amendment
1000.620	Amendment
1000.630	Amendment
1000.810	Amendment
1000.910	Amendment
1000.1010	Amendment
1000.1020	Amendment
1000.1040	Amendment
1000.1050	Amendment
1000.1080	Amendment
1000.1090	Amendment
1000.1110	Amendment
1000.1120	Amendment
1000.1130	Amendment
1000.1150	Amendment
1000.1160	Amendment
1000.1170	Amendment
1000.1180	Amendment
1000.1200	Amendment
1000.1220	Amendment
1000.1310	Amendment
1000.1320	Amendment
1000.1480	Amendment
1000.1510	Amendment
1000.1520	Amendment
1000.1530	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1000.1540	Amendment
1000.1550	Amendment
1000.1570	Amendment
1000.1590	Amendment
1000.1610	Amendment
1000.1620	Amendment
1000.1630	Amendment
1000.1640	Amendment
1000.1650	Amendment
1000.1670	Amendment
1000.1710	Amendment
1000.1730	Amendment
1000.1740	Amendment
1000.1750	Amendment
1000.1760	Amendment
1000.1770	Amendment
1000.1780	Amendment
1000.1790	Amendment
1000.1800	Amendment
1000.1985	Amendment
1000.2005	Amendment
1000.2010	Amendment
1000.2020	Amendment
1000.2040	Amendment
1000.2050	Amendment
1000.2055	Amendment
1000.2105	Amendment
1000.2110	Amendment
1000.2200	Amendment
1000.2300	Amendment
1000.2310	Amendment
1000.2320	Amendment
1000.2400	Amendment
1000.2410	Amendment
1000.2420	Amendment
1000.2500	Amendment
1000.2510	Amendment
1000.2520	Amendment
1000.2530	Amendment
1000.2540	Amendment

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1000.3000	Amendment
1000.3150	Amendment
1000.3550	Amendment
1000.3600	Amendment
1000.3650	Amendment
1000.3700	Amendment
1000.3750	Amendment
1000.4010	Amendment
1000.4020	Amendment
1000.4030	Amendment
1000.4040	Amendment
1000.4050	Amendment
1000.4060	Amendment
1000.4070	Amendment
1000.4080	Amendment
1000.5000	New Section
1000.5010	New Section
1000.5020	New Section
1000.5030	New Section

- 4) Statutory Authority: Payday Loan Reform Act [815 ILCS 122] and Illinois Credit Union Act [205 ILCS 305]
- 5) Effective Date of Amendments: December 1, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: June 23, 2006; 30 Ill. Reg. 10694
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Payday Loan Reform Act requires the Department to promulgate regulatory standards that address a number of business practices concerning payday loans. This rulemaking makes numerous non-substantive changes, including changing references throughout the entire Part from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Barb Smith
Rules Coordinator
Department of Financial and Professional Regulation
320 West Washington Street, 3rd Floor
Springfield, Illinois 62786

217/785-0813
Fax: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

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

PART 1000

ILLINOIS SAVINGS AND LOAN ACT OF 1985

SUBPART A: FEES

Section

1000.110	Filings
1000.120	Conditions
1000.130	Examination Fees
1000.140	Annual Supervisory Fees (Repealed)
1000.141	Supervisory Fees
1000.142	Adjusted Supervisory Fees
1000.143	Special Assessment (Emergency Expired)
1000.150	Manner of Payment
1000.151	Special Credit (Repealed)
1000.160	Withdrawal of Applications or Other Filings

SUBPART B: DEFINITIONS

Section

1000.205	Introduction
1000.210	Association
1000.220	<u>Director of Banking Commissioner</u>
1000.230	Single Family Dwelling
1000.240	Unsafe
1000.250	Mobile Home
1000.260	Mobile Home Chattel Paper
1000.270	Person
1000.280	Proposed Borrower
1000.290	Redlining

SUBPART C: REPORTS

Section

1000.310	Contracts (Repealed)
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SUBPART D: OPERATIONS

- Section
- 1000.410 Permanent Reserve Shares
- 1000.420 Dividend Advertising
- 1000.430 Maintenance of Records
- 1000.440 Business Plan

SUBPART E: APPRAISALS

- Section
- 1000.510 Appraisals

SUBPART F: INVESTMENTS

- Section
- 1000.610 Prudent Person Rule
- 1000.615 Investment Underwriting Practices
- 1000.620 Discrimination and Redlining Prohibited
- 1000.630 Loans Secured by Real Estate
- 1000.640 Construction Loans
- 1000.650 College Loans (Repealed)
- 1000.660 Mobile Home Financing
- 1000.665 Other Loans
- 1000.670 Collateral Loans (Repealed)
- 1000.675 Investment Parity (Repealed)
- 1000.680 Unsecured Loans (Repealed)
- 1000.690 Sale of Loans and Participations (Repealed)
- 1000.700 Insider Loan Rates (Repealed)
- 1000.710 Reverse Mortgage Loans
- 1000.720 Repurchase Agreements

SUBPART G: BONUS PLANS

- Section
- 1000.810 Bonus Plans

SUBPART H: NOTICE TO DIRECTOR~~COMMISSIONER~~

Section

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1000.910 Corrective Action

SUBPART I: SERVICE CORPORATIONS

Section

1000.1010 Requirements
1000.1020 Approval by the ~~Director~~ Commissioner
1000.1030 Lending Limitations
1000.1040 Investments by Service Corporations
1000.1050 Ownership of Capital Stock of Service Corporation
1000.1060 Prohibited Transactions
1000.1070 Disclosure to Service Corporation
1000.1080 Reporting Requirements
1000.1090 Audit Requirements

SUBPART J: RELOCATIONS AND BRANCHING

Section

1000.1110 General
1000.1120 Application
1000.1130 Request for Preliminary Determination
1000.1140 Amendment of Application (Repealed)
1000.1150 Public Notice and Inspection
1000.1160 Protest
1000.1170 Oral Argument
1000.1180 Application for and Maintenance of Branch Office after Conversion,
Consolidation, Purchase of Assets or Merger
1000.1190 Redesignation of Offices
1000.1200 Termination of Operation and/or Closing of a Branch Office
1000.1210 Agency Offices
1000.1220 Remote Drive-In and/or Remote Pedestrian Facilities

SUBPART K: CAPITAL NOTES AND DEBENTURES

Section

1000.1310 Approval
1000.1320 Conversion to Stock
1000.1330 Priority of Claim
1000.1340 Effect on Reserve Requirements

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SUBPART L: THIRD-PARTY PAYMENT ACCOUNTS

Section

1000.1410	General
1000.1420	Depositors
1000.1430	Rate of Interest
1000.1440	Overdraft Privilege
1000.1450	Charges and Fees
1000.1460	Disclosure
1000.1470	Membership
1000.1480	Approval and Authorization

SUBPART M: ADMINISTRATIVE HEARING PROCEDURES

Section

1000.1510	Applicability
1000.1520	Definitions
1000.1530	Filing
1000.1540	Form of Documents
1000.1550	Computation of Time
1000.1560	Appearances
1000.1570	Notice of Hearing
1000.1580	Service of the Notice of Hearing
1000.1590	Motion and Answer
1000.1600	Consolidation and Severance of Matters – Additional Parties
1000.1610	Intervention
1000.1620	Postponement or Continuance of Hearing
1000.1630	Authority of Hearing Officer
1000.1640	Bias or Disqualification of Hearing Officer
1000.1650	Prehearing Conferences
1000.1660	Discovery
1000.1670	Subpoenas
1000.1680	Conduct of the Hearing
1000.1690	Default
1000.1700	Evidence
1000.1710	Official Notice
1000.1720	Hostile Witnesses
1000.1730	Transcription of Proceedings
1000.1740	Briefs
1000.1750	Hearing Officer's Findings, Opinions and Recommendations

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1000.1760	Order of the Director <u>Commissioner</u>
1000.1770	Rehearings
1000.1780	Existing Statutory or Division <u>Agency</u> Procedures and Practices
1000.1790	Costs of Hearing

SUBPART N: SAVINGS AND LOAN HOLDING COMPANIES

Section

1000.1800	Applicability
1000.1810	Plain Meaning/Strict Interpretation
1000.1905	Affiliate
1000.1910	Assets
1000.1915	Books of Record
1000.1920	Capital Stock
1000.1925	Charter
1000.1930	Control
1000.1935	Eligible Account Holder
1000.1940	Eligibility Record Date
1000.1945	Employee
1000.1950	Equity Security
1000.1955	Insured Institution
1000.1970	Member
1000.1972	Net Worth
1000.1975	Officer
1000.1980	Person
1000.1982	Qualifying Deposit
1000.1985	Sale
1000.1990	Security
1000.1993	Source Documents
1000.1997	Subsidiary
1000.2005	Liquidation Account and Proxies
1000.2010	Mutual Holding Company Ceasing to be a Depository Institution
1000.2020	Directors of a Mutual Holding Company
1000.2030	Stock Sales
1000.2040	Stock of a Subsidiary of a Mutual Holding Company
1000.2050	Stock Subsidiary Formation
1000.2055	Net Worth Maintenance Agreement
1000.2060	Members' Rights
1000.2070	Investment
1000.2105	Notice Requirement/Corrective Action

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1000.2110	Insider Abuses
1000.2120	Penalty (Emergency Expired)
1000.2200	Determination of the Qualification and Condition of an Out-of-State Acquisition
1000.2300	Disposal of a Subsidiary
1000.2310	Dividends
1000.2320	Officers and Directors List
1000.2330	Access to Books and Records
1000.2340	Reports (Emergency Expired)
1000.2400	Annual Audit Requirements
1000.2410	Maintenance of Records
1000.2420	Notice of Appointment of CPA
1000.2500	Savings and Loan Holding Company Filing Fees
1000.2510	Savings and Loan Holding Company Supervisory Fees
1000.2520	Examination Fees
1000.2530	Conditions
1000.2540	Manner of Payment
1000.2550	Transformation from Deposit to Non-Deposit (Emergency Expired)

SUBPART O: SAVINGS AND LOAN ADVISORY BOARD

Section	
1000.2700	Purpose (Repealed)
1000.2710	Composition, Appointment (Repealed)

SUBPART P: HIGH RISK HOME LOANS

Section	
1000.3000	Definitions
1000.3100	Ability to Repay
1000.3150	Verification of Ability to Pay Loan
1000.3200	Fraudulent or Deceptive Practices
1000.3225	Prepayment Penalty
1000.3250	Pre-paid Insurance Products and Warranties
1000.3300	Refinancing Prohibited in Certain Cases
1000.3325	Balloon Payments
1000.3350	Financing of Certain Points and Fees
1000.3400	Payments to Contractors
1000.3450	Negative Amortization
1000.3500	Negative Equity
1000.3550	Counseling Prior to Perfecting Foreclosure Proceedings

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- 1000.3600 Mortgage Awareness Program
 1000.3650 Report of Default and Foreclosure Rates on Conventional Loans
 1000.3700 ~~Director's~~~~Commissioner's~~ Review and Analysis
 1000.3750 Third Party Review of High Risk Home Loans

SUBPART Q: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATION

Section

- 1000.4010 Definitions
 1000.4020 Purpose and Scope
 1000.4030 Requests for Confidential Supervisory Information
 1000.4040 Where to Submit a Request
 1000.4050 Consideration of Requests
 1000.4060 Disclosure of Confidential Supervisory Information
 1000.4070 Retrieval and Destruction of Previously Disclosed Confidential Supervisory Information Used in Litigation
 1000.4080 Fees for Services

SUBPART R: PAYDAY LOANS

- 1000.5000 Purpose and Scope
1000.5010 Definitions
1000.5020 Applicability of Subpart
1000.5030 Issuance of Payday Loans

- 1000.APPENDIX A Estimated Monthly Income and Expenses Worksheet
 1000.APPENDIX B Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by Section 7-3 of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-3] and Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35].

SOURCE: Filed and effective January 18, 1974; amended at 2 Ill. Reg. 44, p. 179, effective October 30, 1978; emergency amendment at 2 Ill. Reg. 45, p. 169, effective November 1, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 5, p. 883, effective January 29, 1979; amended at 3 Ill. Reg. 11, p. 163, effective March 12, 1979; amended at 3 Ill. Reg. 19, p. 22, effective May 12, 1979; emergency amendment at 3 Ill. Reg. 39, p. 230, effective September 17, 1979, for a maximum of 150 days; emergency amendment at 4 Ill. Reg. 8, p. 207, effective February 14, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1241, effective July 14, 1980; emergency amendment at 5 Ill. Reg. 2524, effective February 19, 1981, for a

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maximum of 150 days; amended at 5 Ill. Reg. 7124, effective June 24, 1981; amended at 5 Ill. Reg. 7125, effective June 24, 1981; amended at 5 Ill. Reg. 11377, effective October 14, 1981; amended at 6 Ill. Reg. 3175, effective March 4, 1982; amended at 6 Ill. Reg. 4218, effective April 6, 1982; amended at 6 Ill. Reg. 4219, effective April 6, 1982; amended at 6 Ill. Reg. 4227, effective April 6, 1982; amended at 6 Ill. Reg. 7141, effective June 1, 1982; amended at 7 Ill. Reg. 1993, effective January 28, 1983; codified at 7 Ill. Reg. 13669; amended at 8 Ill. Reg. 8630, effective June 1, 1984; amended at 8 Ill. Reg. 15066, effective August 7, 1984; emergency amendment at 9 Ill. Reg. 17437, effective October 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 4946, effective March 11, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 14290, effective August 20, 1986; amended at 10 Ill. Reg. 19781, effective November 6, 1986; amended at 11 Ill. Reg. 20648, effective December 2, 1987; emergency amended at 11 Ill. Reg. 20672, effective December 3, 1987, for a maximum of 150 days; emergency amendments at 12 Ill. Reg. 8106, effective April 20, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 15165, effective September 13, 1988; amended at 13 Ill. Reg. 8927, effective May 26, 1989; amended at 16 Ill. Reg. 4881, effective March 17, 1992; transferred from Chapter III, 38 Ill. Adm. Code 400 March 17, 1992; transferred from Chapter III, 38 Ill. Adm. Code 400 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1000 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 1003] at 17 Ill. Reg. 4464; recodified from Chapter III, Commissioner of Savings and Residential Finance, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6707, effective March 30, 1998; amended at 24 Ill. Reg. 53, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 19312, effective December 15, 2000, for a maximum of 150 days; emergency repealed at 25 Ill. Reg. 3694, effective January 30, 2001, in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1856; amended at 25 Ill. Reg. 6152, effective May 17, 2001; amended at 26 Ill. Reg. 13471, effective September 13, 2002; emergency amendment at 27 Ill. Reg. 16029, effective September 29, 2003, for a maximum of 150 days; emergency amendments suspended at 27 Ill. Reg. 18484, effective November 18, 2003; emergency suspension withdrawn at 28 Ill. Reg. 408, effective December 16, 2003; emergency repealed at 28 Ill. Reg. 414, effective December 16, 2003, in response to the objection and suspension of the Joint Committee on Administrative Rules; amended at 28 Ill. Reg. 783, effective December 29, 2003; amended at 28 Ill. Reg. 7270, effective May 7, 2004; amended at 30 Ill. Reg. 18990, effective December 1, 2006.

SUBPART A: FEES

Section 1000.110 Filings

Filings pertaining to matters named hereafter shall be subject to the indicated fee pursuant to the Illinois Savings and Loan Act of 1985 ([Act](#)) [205 ILCS 105]. [TheSuch](#) fee or fees shall be paid

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at the ~~Commissioner's~~ office of the Director of the Department of Financial and Professional Regulation-Division of Banking (Division) at the time of filing. Payment shall be by check, draft or money order made payable to the Department of Financial and Professional Regulation Office of Banks and Real Estate-(Department).

- a) Permit to Organize
(Article 2 of the Act) \$ 1,000.00
- b) Conversion to Federal Charter
(Article 6, Section 6-12 of the Act) \$ One time the last total annual Supervisory Fee calculated and assessed against the Association as set forth in Section 1000.141(a) and (b) of this Part.
- c) Merger
(Article 6, Section 6-5 of the Act) \$ 1,000.00
- d) Bulk Sale of Assets
(Article 6, Section 6-11 of the Act) \$ 1,000.00
- e) Amendment to Articles of Incorporation providing for the issuance of Permanent Reserve Shares
(Article 4, Section 4-4 of the Act)
(Section 1000.410 of this Part) \$ 1,000.00
- f) Appeals to the Board of Savings Institutions
(Article 7, Section 7-23 of the Act)
(Article 7, Section 7-24 of the Act)
(Article 7, Section 7-26 of the Act) \$ 500.00

Each additional party to an appeal to the Board of Savings Institutions shall pay the sum of \$100.00, and shall bear its pro rata share of all expenses incurred in

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said appeal except as otherwise provided in the Act

- g) Hearing or Oral Argument – each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument

(Article 7, Section 7-27 of the Act)

(Section 1000.1170 of this Part)

(Section 1000.1510 of this Part) \$ 500.00

Each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument shall bear its pro rata share of all expenses incurred in said proceedings.

- h) Application for Subsidiary Acquisition Fee

(Article 1A-5 of the Act) \$ 250.00

Photocopies and duplication Fees

- i)
 - 1) Photocopies (per page)..... \$.25
 - 2) Savings and Loan Act (bound edition) \$ 25.00
 - 3) Rules (bound edition)..... \$ 25.00
 - 4) Annual Report (additional copy) \$ 25.00
 - 5) Mailing Labels \$ 35.00

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.120 Conditions

- a) No submission subject to a fee shall be considered complete without the stipulated fee.
- b) The fee shall be non-refundable regardless of the subsequent action with respect to the submission.
- c) The Director of the Division (Director) ~~Commissioner~~ may waive the payment of

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the applicable fee otherwise required by Sections 1000.110 and 1000.120 when:

- 1) The ~~Director Commissioner~~ determines that the respective Merger or Bulk Sale of Assets or Conversion to Federal Charter avoids the need for the ~~Director Commissioner~~ to take custody of the respective association pursuant to the provisions of Article 7, Section 7-11 of the Act; or
- 2) The establishment of a Branch Office is at the location of the home office of the association which ceases to exist as the result of a Merger or Bulk Sale of Assets which avoids the need for the ~~Director Commissioner~~ to take custody of the respective association pursuant to the provisions of Article 7, Section 7-11 of the Act; or
- 3) The Termination of Operation and Closing of a Branch Office pertains to a branch office of an association which ceases to exist as the result of a Merger or Bulk Sale of Assets which avoids the need for the ~~Director Commissioner~~ to take custody of the respective association pursuant to the provisions of Article 7, Section 7-11 of the Act and the closing of the respective branch office is a condition stipulated in the plan of the respective merger or bulk sale of assets.
- 4) The ~~Director Commissioner~~ determines that the respective conversion to federal charter avoids the need for the ~~Director Commissioner~~ to take custody of the respective association pursuant to the provisions of Section 7-8 of the Act.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.130 Examination Fees

- a) Time expended in the conduct of any examination of the affairs of any association or service corporation pursuant to the provisions of Section 7-5(a) of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-5(a)] or applicable service corporation undertakings, respectively, shall be billed by the ~~Director Commissioner~~ at a rate of \$70 per examiner hour. Such fee shall be billed within 45 days following completion of the respective examination.
- b) When out-of-state travel occurs in the conduct of any examination, the association or service corporation will be billed for expenses incurred in the performance of duties. Billings for such expense shall not exceed amounts authorized pursuant to

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the travel regulations of the Department of Central Management Services/Governor's Travel Control Board set forth at 80 Ill. Adm. Code 2800. In the situation where examination procedures are performed at out-of-state locations, the examination fee of \$70 per hour plus travel, lodging and per diem shall be assessed. Additionally, travel time shall be billed at the examination rate of \$70 per hour.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 100.141 Supervisory Fees

- a) The ~~Director Commissioner~~ shall receive, and there shall be paid to the ~~Director Commissioner~~ by each association and each service corporation operating under the provisions of the Illinois Savings and Loan Act of 1985, a fixed fee of \$600, plus a variable fee based on the total assets of each association and each service corporation as shown on the financial report filed with the ~~Director Commissioner~~ for the reporting period of the prior calendar year ended December 31 according to the following schedule:

33.01¢ per \$1,000 of the first \$2,000,000 of total assets,

29.71¢ per \$1,000 of the next \$3,000,000 of total assets,

26.41¢ per \$1,000 of the next \$5,000,000 of total assets,

23.11¢ per \$1,000 of the next \$15,000,000 of total assets,

19.81¢ per \$1,000 of the next \$25,000,000 of total assets,

16.51¢ per \$1,000 of the next \$50,000,000 of total assets,

14.15¢ per \$1,000 of the next \$400,000,000 of total assets,

9.9¢ per \$1,000 of the next \$500,000,000 of total assets, and

6.6¢ per \$1,000 of all total assets in excess of \$1,000,000,000 of such association or service corporation.

In the situation where service corporations and/or finance subsidiaries are owned by the Association, the owned assets may be consolidated with the assets of the

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Association for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle (Mortgage Backed Securities, Real Estate Mortgage Income Certificates, and other securitized debt instruments), the DirectorCommissioner shall waive that portion of the fee attributed to the finance subsidiary.

- b) The DirectorCommissioner shall receive and there shall be paid to the DirectorCommissioner by each association a fee of \$600 for each approved branch office or facility office established under the provisions of Subpart J of this Part. The determination of such fees shall be made annually as of the close of business of the prior calendar year ended December 31.
- c) One fourth of the sum of the supervisory fee so determined shall be remitted as billed by the DirectorCommissioner. Such fees shall be for the respective current year. Fees payable for the third and fourth calendar quarters of 2003 shall be recalculated using total assets as of December 31, 2002, and the amended fees provided in subsections (a) and (b) of this Section. One fourth of the sum of the supervisory fee determined based on the amended fee schedule shall be remitted as billed for the third and fourth calendar quarters of 2003.
- d) Subject to the requirements of subsection (c) of this Section, for the third and fourth quarters of 2003, supervisory fees shall be determined by the Director Commissioner following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any such fees billed at a later date.
- e) In the event the state charter is converted or otherwise surrendered during the course of the year, the DirectorCommissioner shall determine the supervisory fee based on the total assets of the Association as of the month-end immediately preceding the cancellation of the state charter, except that the measurement date may be another date at the discretion of the Director Commissioner in the event an Association elects to liquidate. In determining whether to set another measurement date, the DirectorCommissioner shall consider the following elements: whether the association is undergoing a planned liquidation (where an association elects to not continue operations), or, the association has transferred significant assets (more than $\frac{1}{2}$ of 1% of the total assets at the previous measurement date).

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

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Section 1000.142 Adjusted Supervisory Fees

- a) The ~~Director Commissioner~~ shall receive and there shall be paid to the ~~Director Commissioner~~ an additional fee as an adjustment to the supervisory fee specified in Section 1000.141 of this Subpart, to be based upon the difference between the total assets of each association and each service corporation as shown by its financial report filed with the ~~Director Commissioner~~ for the reporting period of the calendar year ended December 31 on which the supervisory fee was based, and the total assets of each association and each service corporation as shown by its financial report filed with the ~~Director Commissioner~~ for the reporting period of the calendar year ended December 31 in which the quarterly payments referred to in Section 1000.141 of this Subpart are made according to the following schedule:

33.01¢ per \$1,000 of the first \$2,000,000 of total assets,

29.71¢ per \$1,000 of the next \$3,000,000 of total assets,

26.41¢ per \$1,000 of the next \$5,000,000 of total assets,

23.11¢ per \$1,000 of the next \$15,000,000 of total assets,

19.81¢ per \$1,000 of the next \$25,000,000 of total assets,

16.51¢ per \$1,000 of the next \$50,000,000 of total assets,

14.15¢ per \$1,000 of the next \$400,000,000 of total assets,

9.9¢ per \$1,000 of the next \$500,000,000 of total assets, and

6.6¢ per \$1,000 of all total assets in excess of \$1,000,000,000 of such association or service corporation.

In the situation where service corporations and/or finance subsidiaries are owned by the Association, the owned assets may be consolidated with the assets of the Association for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the ~~Director Commissioner~~ shall waive that portion of the fee attributed to the finance subsidiary.

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- b) Adjusted supervisory fees shall be remitted as billed by the DirectorCommissioner. In the event the total assets of each association and each service corporation as reported on the earlier financial report are more than the total assets as reported on the later annual report the Director Commissioner shall credit the next quarterly remittance of the supervisory fee in the same proportion.
- c) In the event the state charter is converted or otherwise surrendered during the course of the year, the DirectorCommissioner shall determine the supervisory fee based on the total assets of the Association as of the month-end immediately preceding the cancellation of the state charter, except that the measurement date may be another date at the discretion of the DirectorCommissioner in the event an Association elects to liquidate. In determining whether to set another measurement date, the DirectorCommissioner shall consider the following elements: whether the association is undergoing a planned liquidation (where an association elects to not continue operations), or, the association has transferred significant assets (more than ½ of 1% of the total assets at the previous measurement date).

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.150 Manner of Payment

Each invoice for a fee billed by the DirectorCommissioner pursuant to Sections 1000.130, 1000.141 and 440.142 of this Subpart shall be due and payable upon receipt of same by the association or service corporation. Payment shall be by check, draft or money order made payable to the Department of Financial and Professional Regulation-Office of Banks and Real Estate.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.160 Withdrawal of Applications or Other Filings

- a) Unless otherwise specified in the Savings and Loan Act [205 ILCS 105] or this Part, an application or other filing submitted under the Savings and Loan Act or this Part shall be deemed withdrawn if the person making the filing fails to respond within 120 days after a request by the DirectorCommissioner for additional documents or information related to the filing. All withdrawn applications or other filings shall be terminated and shall be ineffective. The DirectorCommissioner may agree to extend the time in which the application or other filing shall be deemed withdrawn unless the Savings and Loan Act or this

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Part requires otherwise.

- b) Notwithstanding subsection (a) of this Section, applications or other filings submitted on or before September 15, 2002 shall not be deemed withdrawn unless the person making the filings fails to respond within 120 days after that date to a request by the Director~~Commissioner~~ for additional documents or information related to the filing.
- c) Nothing in this Section requires the Director~~Commissioner~~ to reissue requests for additional documents or information made prior to September 15, 2002.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART B: DEFINITIONS

Section 1000.220 Director of Banking~~Commissioner~~

"Director~~Commissioner~~" shall mean *the Director of Banking~~Commissioner of Banks and Real Estate~~ or some person authorized by the Director~~Commissioner~~ to act for the Director~~Commissioner~~.*

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART D: OPERATIONS

Section 1000.410 Permanent Reserve Shares

- a) An association proposing to adopt an amendment to its Articles of Incorporation to provide for the issuance of permanent reserve shares pursuant to Section 4-4 of the ~~Illinois Savings and Loan Act of 1985 (Act)~~ shall comply with the applicable provisions of Sections 3-2, 4-3, and 6-2 of the Act. In addition, the following shall be filed with the Director~~Commissioner~~.
- 1) One certified copy of the Board of Directors' resolution adopting the proposed amendment to the Articles of Incorporation, which amendment shall incorporate the Plan of Conversion from mutual to permanent reserve status;
 - 2) One copy of all forms, filings and amendments thereto necessary to comply with applicable Federal Savings and Loan Insurance Corporation

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regulations (12 CFR 563b) and/or to gain the approval of the Federal Home Loan Bank Board to effect the conversion; and

- 3) A copy of the Federal Home Loan Bank Board's written notice of approval.
- b) Upon receipt of all documents enumerated in subsection paragraph (a) of this Section, the DirectorCommissioner shall issue a Certificate of Approval of Amendment to the Articles of Incorporation.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART E: APPRAISALS

Section 1000.510 Appraisals

- a) An association shall not make a loan on the security of real estate nor purchase an installment contract for the sale of real estate, unless such loan or contract purchase is based upon an appraisal made for and at the direction of the association. The association's board of directors shall designate either a qualified fee appraiser or the association's appraisal committee to make such appraisal. Loans guaranteed or insured wholly or in part by the United States or any of its instrumentalities shall be appraised in a manner prescribed by the guarantor or the insurer.
- b) For every appraisal that is made, there shall be attached to such appraisal a copy of a letter of direction from the association to the appraiser establishing general specifications of data to be included in the appraisal and a letter of transmittal directed to the association.
- c) Every appraisal shall be prepared in a manner consistent with generally accepted appraisal practices established by the American Institute of Real Estate Appraisers or the Society of Real Estate Appraisers. The appraisal shall be kept on file at the association. A copy of the appraisal shall be furnished to the DirectorCommissioner upon request.
- d) Before relying upon an appraisal by a qualified fee appraiser, the association shall require the appraiser to file with the association a completed form as prescribed by the DirectorCommissioner. Such form shall indicate the experience and qualifications of the appraiser.

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- e) An association shall not rely upon an appraisal made by a qualified fee appraiser, unless the appraiser has had at least ~~five (5)~~ years of actual appraisal experience and the association has complied with ~~subsection paragraph~~ (d) of this Section.
- f) Each examination of an association may include a review of each appraiser's qualifications. Any adverse findings shall be made known to the association and the appraiser. The ~~Director Commissioner~~ may object to or request the qualifications of any appraiser when:
- 1) the ~~Director Commissioner~~ has verified independent data which raises a question as to the veracity of the appraiser's stated qualifications; or
 - 2) a review of the appraiser's workproduct indicates a pattern of disregard for generally accepted appraisal practices either in form or substance.
- g) No association shall knowingly utilize the services of an appraiser who has been declared by the ~~Director Commissioner~~ to be unqualified to make appraisals for an Illinois-chartered savings and loan association.
- h) The ~~Director Commissioner~~ may order an appraisal of real estate when:
- 1) the association has relied upon an appraisal which is at variance with the requirements of this Subpart; or
 - 2) the association has failed to obtain an appraisal in accordance with this Subpart.
- i) Such appraisal shall be made by an appraiser selected by the association from candidates furnished by the ~~Director Commissioner~~. The ~~Director Commissioner~~ will also furnish to the association the scope of the appraisal assignment applicable to the property to be appraised. Such appraisal shall be made at the expense of the association and paid when due.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART F: INVESTMENTS

Section 1000.620 Discrimination and Redlining Prohibited

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- a) It shall be considered discriminatory to refuse to grant loans or to vary the terms of loans or the application procedures for loans because of:
- 1) in the case of the proposed borrower, said borrower's race, color, religion, national origin, age, sex, or marital status; or
 - 2) in the case of a mortgage loan, the geographic location of the proposed security.
- b) A presumption of discrimination shall be attached to any inquiry regarding a loan authorized by the association's board of directors when
- 1) an association refuses to accept a written application; or
 - 2) a loan application is rejected and not supported by adequate documentation which includes information sufficient to permit an informed non-interested party to reach the same conclusion as the lender concerning the disposition of the application.
- c) In cases of an association's non-compliance with this Section, the ~~Director~~~~Commissioner~~, by written notice, shall require that all inquiries for loans received from proposed borrowers be accepted in writing on application forms that provide information sufficient to make an informed decision concerning the final disposition of the respective loan application. Thereafter, the association shall submit a copy of each rejected application to the ~~Director~~~~Commissioner~~ with a written statement setting forth the reason for rejecting the application, and a copy of each document supporting the decision.
- d) An association shall be required to comply with the ~~Director's~~~~Commissioner's~~ directive issued pursuant to ~~subsection paragraph~~(c) of this Section for a minimum of six months. Should a presumption of discrimination exist at the close of the six-month period, the respective association shall be required to continue such reporting until such later date when the ~~Director~~~~Commissioner~~, by examination, determines that discriminatory practices have ceased and the association is so notified.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.630 Loans Secured by Real Estate

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- a) An association may originate, invest in, sell, purchase, service, participate, or otherwise deal in (including brokerage or warehousing) real estate loans or interests in such loans.
- b) In determining compliance with the maximum loan-to-value limitations specified at subsection paragraph(c) of this Section, an association shall add to the loan amount the total of all other existing liens or other encumbrances on the security property having priority over the association's lien (including the lien to be established by the association but excluding liens that will be released as the result of payments made from the proceeds of the new loan).
- c) At the time of origination, a real estate secured loan granted under the provisions of 205 ILCS 105/5-2 shall not exceed the maximum loan-to-value ratio fixed for a like category by 12 CFR 545 as of February 29, 1984, and the Home Owners' Loan Act of 1933 as amended.
- d) The loan-to-value limitations specified at subsection subparagraph(c) of this Section shall not apply to the following:
 - 1) to loans guaranteed or insured wholly or in part by the United States or any of its instrumentalities;
 - 2) to loans or contracts made to finance the purchase of real estate owned which has been acquired by the association through default on a prior investment provided that the minutes of directors' meetings substantiate that such sale is made in compliance with the following:
 - A) the board of directors approved the specific terms of the loan or contract prior to the association's issuance of a letter of commitment. If no letter of commitment is to be issued, such approval shall be prior to the execution of a note, mortgage, or contract for deed between the purchaser and the association; and
 - B) the board of directors resolution of approval of the respective sale specifically indicates why the sale is in the best interest of the association and that said approval is given after duly considering the provisions of Section 1000.610 of this Subpart; and
 - C) the resolution identifies the specific documentation in their possession and utilized in determining that the sale was in the best

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interest of the association; and

D) all documentation used in evidencing compliance with this ~~subsection~~ Section 1000.630 (d)(2) is retained as a part of the records of the association for so long as the association has a direct or indirect interest in the respective real estate.

3) loans or contracts having additional eligible collateral pledged in an amount equal to that part of the loan or contract which is in excess of the lending limitations specified at ~~subsection paragraph~~ (c) of this Section. Eligible collateral means

A) any investment permissible pursuant to 205 ILCS 105/1-6, 5-2, and 5-3;

B) any savings or time deposit in a commercial bank which deposit is insured by the Federal Deposit Insurance Corporation and not under control of any supervisory authority; or

C) the cash surrender value of a life insurance policy validly assigned to the association.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART G: BONUS PLANS

Section 1000.810 Bonus Plans

a) For the purpose of encouraging thrift and long term investment, bonus plans are herewith established in accordance with the following:

b) Bonus plans may be issued when required, providing for a bonus premium to be paid in accordance with the provisions of such plans, subject to the Director's ~~Commissioner's~~ approval of: the bylaw provision, the form of Member's Bonus Agreement, an appropriate certificate and the terms of each plan.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART H: NOTICE TO DIRECTOR~~COMMISSIONER~~

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Section 1000.910 Corrective Action

An association shall take no corrective action relative to the affairs of the association at the request or direction of any governmental agency except Banks and Real Estate without prior written notice to the Director ~~Commissioner~~ of Banks and Real Estate.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART I: SERVICE CORPORATIONS

Section 1000.1010 Requirements

- a) No association shall invest in or lend to a service corporation as defined at Section 1-10.21 of the Illinois Savings and Loan Act of 1985 unless said service corporation has been approved by the Director ~~Commissioner~~.
- b) This Subpart shall not apply to investments in single-purpose corporations authorized under provisions of Sections 1-6(j) and 5-9 of the Illinois Savings and Loan Act of 1985.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1020 Approval by the Director ~~Commissioner~~

- a) Except as provided in subsection (b), an application for approval of a service corporation shall be approved by the Director ~~Commissioner~~ provided that:
 - 1) its purpose or purposes are reasonably incident to the accomplishment of the express powers conferred upon associations by the Act, or are purposes granted or allowed to service corporations organized or owned by Federal associations; or its sole purpose is to operate as a finance subsidiary of an association to the extent authorized for finance subsidiaries of Federal associations under the provisions of 12 CFR 545.82 as of September 1, 1985; and
 - 2) the application for approval of a service corporation includes: the appropriate fee; a copy of the service corporation's Articles of Incorporation; a list of proposed shareholders ~~shareholder(s)~~; the fiscal year-end date; and an undertaking by the service corporation with the continuing conditions specified in Section 1000.1020(c) and in a form

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prescribed by the DirectorCommissioner.

- b) An application for approval of a service corporation shall be denied by the DirectorCommissioner in writing if the Director Commissioner finds that any proposed shareholder is conducting business in an unsafe manner as defined in Section 1000.240.
- c) Continuing conditions:
- 1) A service corporation shall not amend its Articles of Incorporation nor adopt an assumed corporate name without the prior written approval of the DirectorCommissioner. A proposed amendment to Articles of Incorporation not involving a name change shall be approved unless it is in non-compliance with Section 1000.1020(a)(1). A proposed name change shall be approved unless such proposed name is either deceptively similar to that of a savings and loan association as specified in Section 2-4(e) of the Act or of a nature which might imply that the entity is a savings and loan association.
 - 2) Each service corporation shall cause its affairs to be audited by a licensed public accountant at least once each fiscal year, and cause said accountant to deliver a copy of said certified statement to the DirectorCommissioner simultaneously with the delivery of the statement to the service corporation;
 - 3) Each service corporation shall be examined in conjunction with the examination of its parent associationsassociation(s). The DirectorCommissioner shall require additional reports and/or examinations if the DirectorCommissioner, or his staff members engaged in examination of the association's monthly report, determine that more information is needed to determine the viability of the service corporation; and
 - 4) A service corporation shall not acquire any classified itemitem(s) from any association except that a service corporation may acquire real estate owned by any association. The term classified items has the meaning: prescribed in 12 CFR 561.16c (a)-(c) and (e) March, 1989, (no subsequent dates or editions).

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

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Section 1000.1040 Investments by Service Corporations

- a) A service corporation may invest its assets in any manner not expressly prohibited by law, provided such investments are made in the *exercise of reasonable judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.*
- b) If a service corporation has not been approved, or if approval is withdrawn, all loans to or investments in the service corporation shall constitute an unauthorized investment; however, the association shall be granted a reasonable time within which to dispose of said loans or investments.
- c) A basis for withdrawal of approval of a service corporation exists if:
- 1) the service corporation is subject to involuntary dissolution for failure to file annual reports or pay fees pursuant to ~~the~~The Business Corporation Act ~~[805 ILCS 5](Ill. Rev. Stat. 1991, ch. 32, par. 157.1 et seq.);~~ or
 - 2) the service corporation fails to pay, within 60 days ~~after~~of the billing date, supervisory fees or examination fees due the ~~Director~~Commissioner; or
 - 3) the service corporation fails to file, when due, those reports required by Sections 1000.1080 and 1000.1090 of this Subpart; or
 - 4) the ~~Director~~Commissioner determines that the service corporation is engaged in activities that are not reasonably incidental to the accomplishment of the express powers conferred upon associations by the Act, or granted or allowed to service corporations organized or owned by Federal associations; or
 - 5) the investment of any parent association in the respective service ~~corporation~~corporation(s) is in excess of the investment limitations set forth at Section 1000.1030(a) of this Subpart; or
 - 6) the ~~Director~~Commissioner determines that the service corporation is conducting business in a fraudulent, illegal, or unsafe manner.

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(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1050 Ownership of Capital Stock of Service Corporation

- a) A minimum of ninety percent (90%) of all classes of capital stock of a first-tier service corporation shall be owned by one or more associations. First-tier service corporation means *any corporation which is 90% or more owned by one or more associations, whose purpose or purposes are reasonably incident to the accomplishment of the express powers conferred upon associations by the Act* (~~Ill. Rev. Stat. 1991, ch. 17, par. 3301-10.21~~) [205 ILCS 105/1-10.21].
- b) Subject to approval by the Director~~Commissioner~~, an amount not to exceed ~~ten percent (10%)~~ of all classes of capital stock of a service corporation may be owned by bona fide officers or employees of the service corporation. The ownership by such individuals shall be approved if the Director~~Commissioner~~ finds:
- 1) The sale or issuance of stock to such individuals is at the book value of the stock;
 - 2) If no sale is involved, that the stock issuance to the employee or officer is part of the compensation program documented by a written employment contract; and
 - 3) The ownership of such stock is subject to a repurchase agreement which provides that the service corporation will reacquire the stock from the employee or officer or the estate of such employee or officer at book value at the time of death or termination of employment.
- c) The book value of the stock shall be determined in accordance with generally accepted accounting principles by the independent auditor of the service corporation.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1080 Reporting Requirements

- a) Within ~~45~~forty-five days ~~after~~after the close of each calendar year, each service corporation shall submit to the Director~~Commissioner~~ S&L Form 557, Service

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Corporation Report, setting forth complete and true statements of condition and operations of the service corporation and of every partnership, joint venture or corporation in which the service corporation has a cash and/or equity interest of ~~fifty percent (50%)~~ or more.

- b) All corporate subsidiaries, partnerships and joint ventures in which the service corporation has a cash and/or equity interest of ~~fifty percent (50%)~~ or more shall, within ~~15~~~~fifteen~~ days ~~after the~~~~of~~ request for same by the ~~Director~~~~Commissioner~~, submit true and correct copies of all contracts, mortgages, partnership agreements, joint ventures and loan commitments.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 100.1090 Audit Requirements

- a) Each service corporation shall cause its books and records to be audited at least once annually by an independent licensed public accountant. Except as provided hereafter, the report of audit shall be separate from the report of audit of any parent association.
- b) The report of audit of a wholly-owned service corporation may be consolidated with the report of audit of the parent association provided that such report sets forth:
- 1) the auditor's opinion that the activity of the service corporation does not materially affect the financial position of the parent association, and
 - 2) all details of consolidation.
- c) The auditor shall test compliance with the Act and this Part and determine the effect that the service corporation has on the financial position of the parent ~~associations~~~~association(s)~~.
- d) The auditor shall make a determination and report any facts relating to any direct or indirect self-dealing by any service corporation officer, director, employee or shareholder other than a savings and loan association. The auditor shall also make a determination and report any facts relating to any direct or indirect conflict of interest of any officer, director, employee or permanent reserve shareholder of any savings and loan association holding stock in the service corporation.

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- e) Any noncompliance with the Act or this Part, self-dealing or conflict of interest which are discovered during the audit shall be set forth in the report of audit delivered to the service corporation's board of directors. The service corporation's board of directors shall promptly report such noncompliance to the Director~~Commissioner~~ and to the board of directors of the parent associations~~association(s)~~.
- f) A copy of the audit report shall be filed with the Director ~~Commissioner~~ within ninety days of the audit date, except upon receipt of written notice setting forth the reason delivery of the report of audit is delayed by circumstances beyond control of the service corporation, the Director~~Commissioner~~ may extend the filing date for up to 60~~sixty~~ additional days.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART J: RELOCATIONS AND BRANCHING

Section 1000.1110 General

- a) An association with facility offices existing or approved under previous regulations of the Director~~Commissioner~~ and prior to the effective date of this regulation may advertise or refer to such offices as branches without amending its bylaws. A branch office of an association is any office other than its home office, drive-in facility, pedestrian facility, agency office, or a remote service unit.
- b) Any business of an association may be transacted at a branch office. When a branch office provides any product it must have all the resources necessary to support that product offering at the branch location.
- c) An association shall not establish a branch office nor change the location of its home office unless its respective application has been approved by the Director~~Commissioner~~. An application shall be approved only if the Director~~Commissioner~~ finds that:
- 1) the office *can be established* at the proposed location *without undue injury to properly conducted existing associations* and savings banks chartered under the Illinois Savings Bank Act [205 ILCS 205];
 - 2) the policies and financial condition of the applicant are not a basis for supervisory objection; and

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- 3) the proposed office will open within twelve months of approval unless occupancy is delayed by circumstances beyond the control of the applicant and, consequently, additional time is allowed by the DirectorCommissioner.
- d) An association proposing a change of location of its home office or branch office may request a waiver of the otherwise applicable requirements of this Subpart. The request will be approved only if:
 - 1) the DirectorCommissioner is able to make the same findings as those required at subsection (c) of this Section;
 - 2) the applicant demonstrates that the area to be served from the proposed location is essentially the same as that served from the present location;
 - 3) the applicant gives the reasons for the change of location; and
 - 4) the applicant submits the appropriate fee required by Section 1000.110(c) of this Part, along with a request that sets forth information sufficient to allow the making of all determinations required by this subsection (d).
- e) If requested by the applicant, the DirectorCommissioner shall approve a temporary location of a home office or a branch office if the temporary location:
 - 1) is in the immediate vicinity of the approved permanent location; and
 - 2) can be established without undue injury to any other properly conducted existing association or any properly conducted existing savings bank chartered under the Illinois Savings Bank Act.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1120 Application

- a) An association may apply for a branch office or for a change of location of its home office provided that the applicant obtains the prescribed form of application and form of notice and related instructions from the DirectorCommissioner unless waived pursuant to Section 1000.1110(d).

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- b) An application is considered complete and a priority filing date is established when the ~~Director~~Commissioner determines that all required information has been submitted on the prescribed form along with the appropriate filing fee required by Section 1000.110(c) or (d) of this Part.
- c) Changes to all but material information of the application may be made up to the time approval/denial is determined. For purposes of this section material information is defined as but is not limited to:
 - 1) Association name;
 - 2) Association address;
 - 3) Nature and purpose of application; and
 - 4) Any other information which if changed, would likely cause the approval or denial decision to be reversed.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1130 Request for Preliminary Determination

- a) An association which intends to file an application for a branch office or for a change of location of its home office may, prior to the filing of such application, submit to the ~~Director~~Commissioner written advice of intent to file such an application and request a preliminary determination as to whether supervisory objection will be raised on the basis of the applicant's policies and financial condition. Within ~~30~~thirty days following receipt of the advice of intent, the applicant shall be advised of the ~~Director's~~Commissioner's decision, and if applicable, the reason for supervisory objection.
- b) If at any time subsequent to preliminary determination the ~~Director~~Commissioner determines that a basis for supervisory objection exists, further processing of the respective application shall be denied.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1150 Public Notice and Inspection

- a) After the application is complete, the ~~Director~~Commissioner shall direct the

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applicant, in writing, to publish notice within ~~15~~ten calendar days from such date of direction. The applicant shall publish notice in a newspaper printed in the English language having a general circulation in the applicant's home office community and in the community to be served from the proposed location.

- b) Within ~~10~~ten days following the date of publication, the applicant shall furnish the ~~Director~~Commissioner with two copies each of the required ~~notices~~notice(s) and the publisher's ~~affidavits~~affidavit(s) of publication.
- c) The ~~Director~~Commissioner shall consider the application and its filing confidential until the applicant is advised to publish notice. After publication, the application shall be available for public inspection at the ~~Division of Banking~~Office of Banks and Real Estate, by appointment.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1160 Protest

Protests, answers to protests and other related communications shall be in writing and submitted only as provided in this Section.

- a) Within ~~10~~ten calendar days following the date of publication of notice of application (or ~~20~~twenty calendar days after the date of publication if extension is requested in writing within such ~~10~~ten-day period) any person may file a communication in favor or protest of the application with the ~~Director~~Commissioner. Any person filing such a communication shall simultaneously furnish a copy to the applicant.
- b) Within ~~15~~ten calendar days after receipt of a protest, the objector and the applicant shall be advised in writing whether the ~~Director~~Commissioner considers the protest to be substantial.
- c) No protest shall be considered "substantial" unless it is in writing, filed on time, and contains at least the following:
 - 1) A summary of the reasons for the protest;
 - 2) The specific matters in the application to which objection is raised and the reasons for each objection;

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- 3) Facts supporting the protest, including relevant economic or financial data; and
 - 4) Adverse effects on the objector which may result from approval of the application.
- d) The Director's Commissioner's determination as to whether a protest is "substantial" shall be made on the basis of data showing *undue injury to properly conducted existing association(s)* and/or data disputing the propriety of information set forth in the respective application.
- e) Within ~~20~~twenty (20) calendar days following the date of notice that a protest has been deemed substantial, the applicant may file an answer to such protest with the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1170 Oral Argument

- a) Oral argument on the merits of an application shall be heard if:
 - 1) the applicant, or a person who has filed a protest deemed to be substantial, so requests and the request is received by the Director~~Commissioner~~ within ~~10~~ten calendar days after the time for filing answers to all protests has expired; and
 - 2) the Director~~Commissioner~~, after reviewing the application and other pertinent information, considers oral argument desirable because of protests which dispute the propriety of information set forth in the application.
- b) Any such hearing of oral argument shall be subject to the appropriate fee and expenses prescribed in Section 1000.110(m) of this Part. A transcript of any such hearing of oral argument shall be taken and made a part of the record in the matter.
- c) The Director~~Commissioner~~ shall mail notice of the date (which shall be at least ten calendar days after such mailing), time and place of oral argument to the applicant and ~~person~~person(s) who filed protests or other communications. The Director~~Commissioner~~ shall ensure that the time and place of any oral argument

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are reasonably convenient to the applicant and the ~~objectors~~ objector(s).

- d) The ~~Director~~ Commissioner or any person designated by the ~~Director~~ Commissioner shall hear oral argument and determine all matters relating to the conduct thereof. Arguments shall be made in person or by authorized ~~representatives~~ representative(s). A maximum of one hour of oral argument shall be allowed in favor of and against the application. In hearing oral arguments, the person presiding shall determine the order of presentation. The parties may agree on a division of time; otherwise, the person presiding shall make the determination. Arguments may be consolidated. In the event of multiple substantial protests, the person presiding may permit additional time for argument and rebuttal. Arguments shall be based only on the facts and information on file; however, a party may introduce newly discovered matter by giving a written memorandum of same to the person presiding when the hearing commences. Said memorandum shall include an affidavit as to why the matter was not previously known and not previously filed. No party to an oral argument shall be permitted more than one filing of new matter. If the person presiding rules that there is in fact substantive new matter, the party introducing it shall be required to provide copies of the memorandum of such new matter to all parties. If the parties agree to argue on the basis of such new matter, the hearing shall continue.
- e) If any party wishes to file a rebuttal, ten calendar days shall be allowed for the submission of such rebuttal, and the person presiding shall adjourn the hearing and set a date, time and place for it to be reconvened. Rebuttal to new matter shall not be considered a filing of new matter.
- f) If oral argument is heard by a person other than the ~~Director~~ Commissioner, that person's findings shall be submitted to the ~~Director~~ Commissioner, in writing, within ~~25~~ twenty-five calendar days after final adjournment of the hearing. Within ten calendar days following receipt of said findings the parties shall be advised, in writing, of the ~~Director's~~ Commissioner's decision. If the ~~Director~~ Commissioner presides at the hearing, the parties to the hearing shall be advised of the decision within ~~25~~ twenty-five calendar days after final adjournment of the hearing.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1180 Application for and Maintenance of Branch Office after Conversion, Consolidation, Purchase of Assets or Merger

- a) With written approval of the ~~Director~~ Commissioner, an association which

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acquires an office or offices through merger, purchase, purchase of all assets or consolidation shall assume the operation of any such acquired ~~offices~~office(s), subject to the provisions of Section 1000.1200 of this Subpart. An existing association which converts to a state-chartered association shall maintain all of its offices, existing or approved prior to the conversion, if such offices are set forth in its bylaws, adopted in accordance with Section 6-13(c) of the ~~Illinois Savings and Loan Act of 1985~~. Offices set forth in its bylaws shall be subject to the provisions of Section 1000.1200 of this Subpart.

- b) If the ~~Director~~Commissioner has approved a Plan of Conversion to Federal charter for an association or has evidence of an association's intent to file such Plan of Conversion, he shall deny an application for a branch office.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1200 Termination of Operation and/or Closing of a Branch Office

- a) An Association may offer to sell a branch ~~offices~~office(s) to another savings and loan association.
- 1) Prior to any such sale, a copy of the proposed agreement shall be submitted to the ~~Director~~Commissioner. Within ~~30~~thirty calendar days the ~~Director~~Commissioner shall notify the proposed seller, in writing, as to whether there is supervisory objection to the proposed sale or the ~~Director~~Commissioner may advise the proposed seller of any additional information or further review deemed necessary to make such a determination. The ~~Director~~Commissioner in considering supervisory objection shall review the policies and financial condition of the selling association and the acquiring association.
 - 2) The selling association and, if applicable, the acquiring association shall submit an appropriate bylaw amendment for the ~~Director's~~Commissioner's approval.
- b) An association showing justification for termination of operation and the closing of a branch ~~office~~office(s) may do so with the prior written approval of the ~~Director~~Commissioner. Any request for the closing of any office shall be subject to the publication requirements of Section 1000.1150(a) of this Subpart.
- c) The filing of a request for termination of operation and the closing of a branch

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office(s) shall constitute authority for the ~~Director~~ Commissioner to seek a successor association to assume operation of the branch office(s).

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1220 Remote Drive-In and/or Remote Pedestrian Facilities

- a) An association may, without prior approval of the ~~Director~~ Commissioner other than approval of an appropriate bylaw amendment, establish one Remote Drive-In and/or one Remote Pedestrian facility in conjunction with each association business office. Each such facility may be designed to simultaneously accommodate more than one customer.
- b) The term "business office" means the business-office premises including non-remote drive-in and/or non-remote pedestrian facilities which are those facilities within the boundaries of real estate on which a home office or any branch office is located and the areas contiguous thereto which the association has the exclusive right as owner or lessee to use or maintain for ingress or egress or for parking in connection with that business office.
- c) Remote drive-in and remote pedestrian facilities are defined as follows:
 - 1) A remote drive-in facility is a facility which is not located on the premises of a business office as defined in ~~subsection paragraph~~ (b) of this Section and at which the customer transacts business from a vehicle.
 - 2) A remote pedestrian facility is a facility which is not located on the premises of a business office as defined in ~~subsection paragraph~~ (b) of this Section and at which the customer need not enter an office but may remain outside the structure and transact business with a teller located inside the structure.
- d) Remote drive-in and remote pedestrian facilities shall be initially located within the following limitations.
 - 1) Remote drive-in and/or remote pedestrian facilities must be initially located not more than 1500 feet from a business office of the establishing association, and such initial location must be closer to a business office of the establishing association than to a business office of any other savings and loan association.

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- 2) Such a facility may be placed in a store or location of some other business if the association's quarters are used exclusively for the conduct of the association's business. There will be no objection to a remote pedestrian facility which faces on an enclosed mall and serves pedestrians who remain in the mall while transacting business with the association.
- e) Functions which are routinely performed by the establishing association's tellers at its business ~~offices~~office(s) may be performed at a remote drive-in and/or remote pedestrian facility; however, the acceptance of a completed loan application is prohibited.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART K: CAPITAL NOTES AND DEBENTURES

Section 1000.1310 Approval

An association may issue and sell its capital notes or debentures with the prior approval of the ~~Director~~Commissioner and subject to any conditions the ~~Director~~Commissioner may impose. A permanent reserve association shall also have the prior approval of a majority of the shareholders owning a majority of the issued and outstanding permanent reserve shares of the association to issue convertible capital notes or debentures.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1320 Conversion to Stock

Capital notes or debentures issued by permanent reserves association may be converted into shares in accordance with provisions approved by the ~~Director~~Commissioner and contained in the capital notes or debentures. Convertible capital notes or debentures may be issued without preemptive rights to existing shareholders if provided by the Articles of Incorporation of the association and authorized by the ~~Director~~Commissioner.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART L: THIRD-PARTY PAYMENT ACCOUNTS

Section 1000.1480 Approval and Authorization

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Prior to offering third-party accounts an association shall obtain the approval of the ~~Director~~Commissioner. The following items must be submitted to the ~~Director~~Commissioner before authorization to issue third-party accounts will be given.

- a) A fully executed copy of any clearing agreement between the association, its correspondent bank or banks and the Federal Reserve Bank.
- b) A board of directors' resolution which authorizes the issuance and maintenance of third-party accounts and which also establishes the rules and regulations under which such accounts shall be administered.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART M: ADMINISTRATIVE HEARING PROCEDURES

Section 1000.1510 Applicability

This ~~Subpart~~regulation shall apply to all hearings conducted under the jurisdiction of the Illinois ~~Director~~Commissioner of ~~Banking Banks and Real Estate~~ under the Savings and Loan Act of 1985.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1520 Definitions

"Act" – Illinois Savings and Loan Act of 1985 [205 ILCS 105/1-1].

~~"Agency" – Office of Banks and Real Estate.~~

"Applicant" – Association or holding company or person whose application pending before the ~~Director~~Commissioner is subject matter of the hearing.

"Association" – Every savings and loan association organized under and governed pursuant to the Illinois Savings and Loan Act of 1985; a State-chartered savings and loan association.

~~"Director~~Commissioner" – ~~Director of the Illinois Department of Financial and Professional Regulation-Division of Banking~~Commissioner of Banks and Real Estate for the State of Illinois.

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"Company" – Any corporation, partnership, trust, joint-stock company, or similar organization, but does not include the Federal Savings and Loan Insurance Corporation, any Federal home loan bank, or any company the majority of the shares of which is owned by the United States or any State, or by an officer of the United States or any State in his official capacity, or by an instrumentality of the United States or any State.

"Hearing Officer" – The presiding ~~official~~^{official(s)} designated by the ~~Director~~^{Commissioner} to conduct a hearing or anyone designated by the ~~Director~~^{Commissioner} to hear evidence; means any member of the panel the ~~Director~~^{Commissioner} appoints to conduct the hearing.

"Holding Company" – Any company as defined in Section 1A-1 of the Act.

"Institution" – A savings and loan association, a savings bank, a Federal savings and loan association, a Federal savings bank, a building and loan, homestead association or a cooperative bank, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and shall include a Federal savings bank, the deposits of which are insured by the Federal Deposit Insurance Corporation, and a savings bank or any other thrift depository institution by whatever name called.

"Mutual" or "Mutually Owned" – is a holding company institution in which ownership is evidenced by membership, as opposed to capital stock, typically determined by the maintenance of a depository relationship with at least one subsidiary depository institution.

"Mutual Thrift Holding Company" – is a holding company which owns one or more savings and loan association, savings bank, building and loan association, homestead, or other institution as defined at Section 1000.1520 ~~of these rules and regulations~~, which is owned mutually.

"Notice" – Notice prescribed by the Act or this Part, as applicable.

"Objector" – Entity or person who is on record as objecting to the application pending before the ~~Director~~^{Commissioner} which is the subject matter of the hearing.

"Party" – Entity or person named in pleading or affected by judgment.

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(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1530 Filing

Documents and requests permitted or required to be filed with the Agency in connection with a hearing shall be addressed to and mailed to or filed with the Division Office of Banks and Real Estate, 500 East Monroe, Suite 800, Springfield, Illinois 62701 or 310 South Michigan Avenue, Suite 2130, Chicago, Illinois 60604, in triplicate. The office of the Division Agency is open for filing and inspection and copying of public documents from 8:30 a.m. to 5:00 p.m., Monday through Friday, except on national and Statestate legal holidays.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1540 Form of Documents

- a) All documents shall clearly show the title of the proceedings in connection with which they are filed.
- b) Except as otherwise provided, ~~three (3)~~ copies of all documents including notices, motions and petitions, shall be filed with the Division Agency.
- c) All documents shall be typewritten or reproduced from typewritten copy on letter or legal size white paper.
- d) One ~~(1)~~ copy of each document filed shall be signed by the party or by the party's authorized representative or attorney.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1550 Computation of Time

Computation of any period of time prescribed by this Subpart regulation shall begin with the first business day following the date of filing of the documentation with the Division Agency pursuant to Section 1000.1530 of this Subpart, and shall run until the end of the last day, or the next following business day if the last day is a Saturday, Sunday or national or Statestate holiday. Where the period of time is ~~five (5)~~ days or less, Saturdays, Sundays and national or Statestate holidays shall be excluded in the computation of time. Notice requirements shall be construed to mean notice received, but proof that notice was dispatched by means reasonably calculated to be received by the prescribed date shall be prima facie proof that notice was timely received.

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(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1570 Notice of Hearing

All administrative hearings shall be initiated by the issuance by the DivisionAgency of a written notice of hearing, which shall be served upon all known parties to the hearing.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1590 Motion and Answer

- a) Any party receiving a notice of hearing may file an answer not later than ~~five (5)~~ days prior to the date of hearing. All answers to motions preliminary to a hearing shall be presented to the DivisionAgency and to the hearing officer at least ~~five (5)~~ days prior to the date of hearing, or on such other date as the hearing officer shall designate and shall be served personally or by registered or certified United States mail.
- b) Unless made orally on the record during a hearing, or unless the hearing officer directs otherwise, an answer to a motion shall be in writing and shall be accompanied by any affidavits or other evidence relied upon and, as appropriate, by a proposed order. At least ~~two (2)~~ copies of all such motions shall be filed with the DivisionAgency (one ~~(1)~~ for the DivisionAgency attorney and one ~~(1)~~ for the hearing officer) and at least one ~~(1)~~ copy served on each additional party, if any, to the hearing.
- c) Within ~~five (5)~~ days after service of a written motion, or such other period as the hearing officer may prescribe, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence. If no response is filed, the parties shall be deemed to have waived objection to the granting of the motion. The moving party shall have no right to reply, except as permitted by the hearing officer.
- d) No oral argument will be heard on a motion unless the hearing officer directs otherwise. A written brief may be filed with a motion or an answer to a motion, stating the arguments and authorities relied upon.
- e) A written motion will be disposed of by written order and on notice to all parties.
- f) The hearing officer shall rule upon all motions, except that the hearing officer

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shall have no authority to dismiss or decide a hearing on the merits without granting all parties to the proceeding a right to be heard and to establish a record.

- g) Unless otherwise ordered, the filing of an answer or motion shall not stay the proceeding or extend the time for the performance of any act.
- h) A party may participate in the proceedings without forfeiting any jurisdictional objection, if ~~that~~~~such~~ objection is raised at or before the time the party files an answer or motion, or, if no answer to motion is made, before the commencement of the hearing.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1610 Intervention

- a) Upon timely written application, the hearing officer may permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when either of the following conditions is met:
 - 1) When the party is so situated that ~~the~~~~said~~ party may be adversely affected by a final order arising from the hearing; or
 - 2) When a party's circumstances and the hearing proceeding have a question of law or fact in common.
- b) Two ~~(2)~~ copies of a petition for intervention shall be filed with the ~~Division~~~~Agency~~ (one ~~(1)~~ for the ~~Division~~~~Agency~~ attorney and one ~~(1)~~ for the hearing officer) and one ~~(1)~~ copy served on each party no later than 48 hours prior to the date set for hearing of the matters set forth in the notice of hearing. The hearing officer may permit later intervention when there is good cause for the delay.
- c) An intervenor shall have all the rights of an original party, except that the hearing officer may, in his ~~or her~~ order allowing intervention, provide that the applicant and objector shall be bound by orders ~~previously~~~~theretofore~~ entered or by evidence ~~previously~~~~theretofore~~ received, that the applicant and objector shall not raise issues ~~that~~~~which~~ might more properly have been raised at an earlier stage of the proceeding, that the applicant and objector shall not raise new issues or add new parties, or that in other respects the applicant and objector shall not interfere with the control of the hearing, as justice and the avoidance of undue delay may

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require.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1620 Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the ~~Director~~ Commissioner or the hearing officer upon their own motion or upon motion of a party to the hearing; such motion of the party shall set forth facts attesting that the request for continuance is not for purposes of delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1630 Authority of Hearing Officer

The hearing officer has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order and insure the development of a clear and complete record. The hearing officer shall have all powers necessary to conduct a hearing including the power to:

- a) Administer oaths and affirmations;
- b) Regulate the course of hearings, set the time and place for continued hearings, fix times for filing of documents, provide for the taking of testimony by deposition if necessary and generally conduct the proceedings according to generally recognized administrative law and this Subpart.
- c) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony and set reasonable limits on the amount of time each witness may testify;
- d) Rule upon offers of proof and receive relevant evidence;
- e) Sign and issue subpoenas that require attendance, giving testimony and the production of books, papers and other documentary evidence;
- f) Direct parties to appear and confer for the settlement or simplification of issues, and to otherwise conduct prehearing conferences;

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- g) Dispose of procedural requests or similar matters;
- h) Render findings of fact, opinions and recommendations for an order of the ~~Director~~ Commissioner;
- i) Enter any order that further carries out the purpose of this Subpart; and
- j) At the hearing officer's discretion, accept probative, relevant evidence from any entity.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1640 Bias or Disqualification of Hearing Officer

- a) Any interested party may file a timely and sufficient affidavit setting forth allegations of personal bias, prejudice or disqualification of a presiding hearing officer. The ~~Director~~ Commissioner shall determine this issue as part of the record of the case. When a hearing officer is disqualified, or it becomes impractical for that hearing officer to continue, another hearing officer may be assigned, unless it is further shown that substantial bias or prejudice will result from that assignment.
- b) The hearing officer may at any time voluntarily disqualify the hearing officer.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1650 Prehearing Conferences

- a) Upon written notice by the hearing officer in any proceeding, or upon written request by any party, the hearing officer may direct parties or their attorneys to appear at a specified time and place for a conference, prior to or during the course of hearing, for the purpose of formulating issues and considering:
 - 1) The simplification of issues;
 - 2) The necessity or desirability of amending the pleadings for the purpose of clarification, amplification or limitation;
 - 3) The possibility of making admissions of certain averments of fact or

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stipulations concerning the use by either or both parties of matters of public record to avoid unnecessary introduction of proof;

- 4) The limitation of the number of witnesses;
 - 5) The propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and
 - 6) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.
- b) Opportunity shall be afforded all parties to be represented by legal counsel and to dispose of the case by stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order reached before a final determination by the [DivisionAgency](#), shall be submitted in writing to the hearing officer and shall become effective only if approved by the hearing officer and by the [DirectorCommissioner](#).
- c) Only if all parties to a controversy agree, a record of the prehearing conference shall be kept. It must be certified to by the parties, then filed with the case material in the [DivisionAgency](#) files.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1670 Subpoenas

- a) Upon application to the hearing officer by any party, the hearing officer may issue a subpoena for attendance at deposition or hearing, which may include a command to produce books, papers, documents or tangible things designated [in those materials therein](#) and reasonably necessary to resolution of the matter under consideration, subject to the limitations on discovery prescribed by this Subpart.
- b) Every subpoena shall state the title of the action and shall command each person to whom it is directed to attend and give testimony at the time and place [therein](#) specified [in the subpoena](#).
- c) The hearing officer or the [DirectorCommissioner](#), upon motion made promptly and in any event at or before the time specified in the subpoena for compliance [therewith](#), may quash or modify the subpoena if it is unreasonable and oppressive.

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(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1710 Official Notice

Official notice may be taken of all facts of which judicial notice may be taken and of other facts of a technical nature, within the specialized knowledge and experience of the [DivisionAgency](#).

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1730 Transcription of Proceedings

- a) Oral proceedings at which evidence is presented shall be recorded either by a certified court reporter or a mechanical recording device. Any transcription will be retained through and including the time allotted for appeal, revision, rehearing or other manner of review prior to final disposition as provided for by the [DivisionAgency](#) or by law.
- b) The transcript and the record offered in connection with the hearing shall constitute the official record.
- c) The record in an administrative hearing shall include:
 - 1) Prehearing records;
 - 2) All pleadings (including all notices and answers, motions, briefs and rulings);
 - 3) Evidence received;
 - 4) A statement of matters officially noticed;
 - 5) Offers of proof, objections and rulings;
 - 6) Findings, opinions and recommendations of the hearing officer.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1740 Briefs

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The parties may submit written briefs to the hearing officer within ~~ten (10)~~ days after the close of the hearing, or such other reasonable time as the hearing officer shall determine consistent with the ~~Director's~~ Commissioner's responsibility for expeditious decision.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1750 Hearing Officer's Findings, Opinions and Recommendations

- a) The hearing officer's findings, opinions and recommendations shall be in writing and shall include findings of fact and conclusions of law, or opinions separately stated when possible. Findings of fact shall be based exclusively on the evidence presented at the hearing or known to all parties, including matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a statement of the underlying supporting facts. If a party submits proposed findings of fact which may control the decision or order, the decision or order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by authority or reasoned opinion. A decision or order shall not be made except upon consideration of the record as a whole or such portion thereof as may be supported by competent material and substantial evidence.
- b) The hearing officer shall then submit findings, opinions and recommendations to the ~~Director~~Commissioner.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1760 Order of the ~~Director~~Commissioner

- a) The ~~Director~~ Commissioner shall review the hearing officer's findings, opinions and recommendations and shall issue an order as set forth by applicable statutes or within a reasonable time.
- b) The decision in the case will become effective immediately upon the execution of a written order, or as otherwise specified by either the order or applicable statute.
- c) Parties shall be immediately notified either personally or by mail, postage prepaid, certified or registered, addressed to the last known address of the person, partnership, association or company involved, of the order. A copy of the order shall be delivered or mailed to each party and to the party's attorney of record.
- d) The ~~Director~~Commissioner, may, as part of thesaid order, require any party to the

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proceeding to pay part or all of the costs of the hearing, including but not limited to: witness fees; court reporter fees; hearing officer fees; and the cost of the transcript.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1770 Rehearings

- a) Except as otherwise provided by law, and for good cause shown, the Director ~~Commissioner~~ may in the Director's ~~Commissioner's~~ discretion order a rehearing in a contested case on petition of an interested party.
- b) Where the record of testimony made at the hearing is found by the Director ~~Commissioner~~ to be inadequate for purposes of judicial review, the Director ~~Commissioner~~ may order a reopening of the hearing.
- c) A motion for rehearing or a motion for the reopening of a hearing shall be filed within ~~ten (10)~~ days ~~after~~ the date of mailing of the Director's ~~Commissioner's~~ order. A rehearing shall be noticed and conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for the Director's ~~Commissioner's~~ reconsideration and for judicial review. A decision or order may be amended or vacated after hearing.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1780 Existing Statutory or Division ~~Agency~~ Procedures and Practices

This Subpart shall not be construed to limit or repeal additional requirements imposed by Statute or otherwise, or to change existing Division ~~Agency~~ procedures which are equivalent to or exceed the standards or administrative procedure prescribed in this Subpart.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1790 Costs of Hearing

In addition to filing fees set forth in Subpart A, Section 1000.110(m) of this Part, each party to the hearing shall be required to pay its pro rata share of expenses including the hearing officer; transcript and such other incidental cost as may be authorized by the hearing officer or by the Director ~~Commissioner~~, unless waived by the Director ~~Commissioner~~.

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(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART N: SAVINGS AND LOAN HOLDING COMPANIES

Section 1000.1800 Applicability

- a) This Subpart shall apply to all stock holding companies, mutual thrift holding companies or associations that directly or indirectly, own or control or seek to own or control 25% or more of the voting shares or rights of any association in any manner, except where such ownership arises in the regular course of business as set forth in Section 1A-1 of the Act.
- b) Except with the permission of the Director~~Commissioner~~, and the Federal Home Loan Bank Board (FHLBB), no company shall become a thrift holding company with the power to hold or vote, directly or indirectly, 25% or more of the voting stock of one or more institution.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.1985 Sale

The term "sale" and "sell" includes every contract to sell or otherwise dispose of a security or interest in a security for value, but such terms do not include an exchange of securities in connection with a merger or acquisition approved by the Director~~Commissioner~~, the FHLBB or the FSLIC.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2005 Liquidation Account and Proxies

- a) Each mutual association converting to form a holding company must establish a "liquidation account" for members of the mutual association prior to conversion. The total amount allocated to the liquidation account shall be equivalent to the amount of stock issued to the holding company by the stock subsidiary upon infusion of assets and liabilities to the stock subsidiary.
- b) Each member of the liquidation account who maintains an account in the stock subsidiary institutions~~institution(s)~~ shall be entitled, upon liquidation of the mutual holding company, to a fractional share of the value of the mutual holding company. The numerator of the fractional share shall be the amount of qualifying

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deposits in the member's account on the record eligibility date, which date shall be set by the board of directors in their plan of conversion and/or application to form a mutual holding company, and/or the supplemental eligibility record date and the denominator of the fractional share shall be the total amount of qualifying deposits of all eligible and supplemental eligible account holders in the converting mutual association on the eligibility record date. Any plan to liquidate the mutual holding company must be approved by the ~~Director~~ ~~Commissioner~~ and must satisfy all claims of creditors, including liquidation account holders. Any remaining value in the mutual holding company shall be transferred to the net worth of the subsidiary stock ~~institutions~~ ~~institution(s)~~.

- c) All proxies previously executed and assigned by members of the mutual association converting to form a holding company shall remain valid and effective without impairment as long as the member maintains an account in the new stock savings and loan association.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2010 Mutual Holding Company Ceasing to be a Depository Institution

- a) Each mutual savings and loan association ~~that~~ ~~which~~ converts to holding company status in conjunction with the chartering of a stock subsidiary shall be issued a "restated or amended charter" as a mutual thrift holding company by the ~~Director~~ ~~Commissioner~~ and the directors shall return the original charter, insurance undertakings and certificate of insurance to the issuing authority as evidence of ceasing to be an insured depository institution. These items may be transferred to the stock subsidiary with permission of the ~~Director~~ ~~Commissioner~~. ~~The~~ ~~Director's~~ ~~Sueh~~ permission shall be given upon successful completion of an examination to assure conformance with regulatory and statutory requirements.
- b) Upon the issuance of the charter as a mutual thrift by the ~~Director~~ ~~Commissioner~~, a mutual holding company shall cease to be a savings and loan association, thrift, savings bank, or depository institution of any type.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2020 Directors of a Mutual Holding Company

- a) Each new Board of Directors for the holding company shall be selected by vote of members, in a process to be determined by the bylaws of each entity.

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- b) Each Board of Directors shall have at least ~~five (5)~~ members.
- c) The provisions of ~~Sections~~~~Section~~ 3303-4, 3303-6, 3303-7, and 3303-10 of the ~~Illinois Savings and Loan Act of 1985~~ shall apply to a mutual holding company with regard to directors' vacancies, directors' attendance at meetings, qualifications to be a director, and similar matters, except that the holding company may file a written request for waiver of compliance with any provision with the ~~Director~~~~Commissioner~~. Such request must provide detailed discussion of the grounds for such request. In determining whether to grant a waiver of compliance, the ~~Director~~ ~~Commissioner~~ shall consider the following factors, including, but not limited to:
- 1) Where application of those provisions to holding companies would be inappropriate because the provisions were drafted for savings and loans;
 - 2) Where a holding company and its subsidiary meet or exceed all applicable capital requirements and are not in violation of any statutes, rules or regulations;
 - 3) Where there are not current contested or regulatory matters;
 - 4) Where waiver would work undue hardship or result in undue advantage or risk, prejudicing a situation currently or in the future; and,
 - 5) The ~~Director~~ ~~Commissioner~~ may not waive any provision of Section 3303-10.
- d) Upon creation of the stock subsidiary, the Board of Directors of the original mutual institution shall nominate a Board of Directors for the stock subsidiary.
- e) A mutual holding company may provide for cumulative voting for directors in its bylaws.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2040 Stock of a Subsidiary of a Mutual Holding Company

- a) The stock subsidiary shall issue shares to the holding company only after sufficient assets to match transferred deposit liabilities are transferred to the

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subsidiary and after written confirmation of continuation of insurance of accounts is received from the appropriate federal depository insurance corporation or its agent.

- b) Stock issuance shall initially be only common stock, but other classes of stock may be issued upon application to and approval by the ~~Director~~ Commissioner.
- c) Each share of common stock shall entitle its owner to one vote.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2050 Stock Subsidiary Formation

In conjunction with the formation of a stock subsidiary of a mutual thrift holding company, the requirements of Article 2 – "Incorporation and Organization" of the Illinois Savings and Loan Act of 1985 shall apply with the following additions.

- a) In the case of a change of corporate form, which does not alter the assets and liabilities of the original institution as transferred to the resulting stock subsidiary with regard to their amount or quality, the minimum initial capital...which would be required in order to obtain insurance of accounts by the Federal Savings and Loan Insurance Corporation shall mean the amount of minimum capital which the original institution was required to have to maintain its federal insurance of accounts.
- b) The application to organize shall be made by the directors of the original institution. Copies of directors' and officers' affidavits and statements of personal interest from the last ~~five (5)~~ years' examination reports may be submitted to the ~~Director~~ Commissioner to the extent that they provide business and financial information on affiliations with any other financial institutions. Each applicant shall submit amendments to these materials to provide omitted, but required, information.
- c) Exhibits and maps shall display the original and new institution's customer area, and provide quarterly Federal and/or State reports for the four quarters preceding application, as well as the original institution's last ~~two (2)~~ audited financial statements.
- d) The ~~Director~~ Commissioner may require information as to:

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- 1) How stock shall be distributed. Such reports shall be required upon formation of the holding company, prior to issuance or marketing of stock and at any other time necessary to ensure fundamental fairness to stockholders, members, depositors and for reasons related to the safe and sound financial operation of the institution.
 - 2) Whether depositors of the old institution shall continue to hold voting and membership rights in the new institution.
 - 3) The form and manner of expressing ownership.
 - 4) The amount of treasury stock shall be held, planned issuances of capital stock or equity securities, with projected dates and amounts.
- e) Once the stock subsidiary is formed, if the original mutual institution no longer retains any deposits, it shall no longer be required to maintain insurance of accounts and therefore shall not be required to meet any regulatory or statutory requirements which apply only to depository institutions such as net worth, loan loss reserves, and investment and lending limits.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2055 Net Worth Maintenance Agreement

- a) The ~~Director~~ ~~Commissioner~~ shall require each mutual holding company to execute a "Net Worth Maintenance Agreement" for each subsidiary depository institution it acquires. Under this agreement the holding company shall contractually agree to infuse equity capital as needed to keep net worth or regulatory capital at a predetermined level for each subsidiary depository institution. The Agreement shall:
 - 1) Be for a specified term, in a higher amount to be set by the ~~Director~~ ~~Commissioner~~ taking into account such factors as: capital risk (the risk from normal internal operations of the institution), market volatility (external risk to the institution's operations generated by uncontrolled factors such as: equity and bond markets, money supply, inflation), and stock ownership patterns (such as common, voting common, voting preferred, non-voting preferred, etc.);
 - 2) Explicitly consent to the ~~Director's~~ ~~Commissioner's~~ authority to require

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infusion of additional equity capital when he determines the institution fails to meet its regulatory capital or net worth requirements. Such a determination shall be in accordance with Section 4-16 of the Act;

- 3) Explicitly give the Director ~~Commissioner~~ the right to vote and dispose of the stock of any subsidiary institutions whose net worth or regulatory capital is not restored within ~~five (5)~~ business days ~~after~~ of the Director's ~~Commissioner's~~ determination of the need for additional capital; and
 - 4) Establish procedures to effectuate subsection (a)(3) ~~above~~ including provision of notice to all affected parties and selection of time and place at which the vote and disposition will occur.
- b) The Director's ~~Commissioner's~~ right to vote stock shall include all shareholder matters, including the right to remove and replace the Board of Directors, the right to merge the institution and the right to sell the stock.
 - c) The Director ~~Commissioner~~ shall base determination of a regulatory capital or net worth deficiency upon:
 - 1) Reports from the subsidiary depository institution or the mutual holding company and, or;
 - 2) Audited financial statement of the mutual holding company or the subsidiary depository institution and, or;
 - 3) Examination, including examination by another government regulator, or a federal deposit insurance company, of the mutual holding company or the subsidiary depository institution.
 - d) In determining adequacy of net worth or regulatory capital, the Director ~~Commissioner~~ shall review and examine the financial condition of entities which are affiliates or subsidiaries of the mutual holding company and of the subsidiary depository institution. If there is a determination by the Director ~~Commissioner~~ that the subsidiary activity of the holding company represents a higher level of risk to the depository institution that existed prior to the application of the holding company formation, a higher net worth amount shall be required and the basis of the Director's ~~Commissioner's~~ decision shall be communicated in writing within ~~thirty (30)~~ days to the institution.

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- e) All infusions to net worth or regulatory capital under this Section must be in cash or cash equivalent instruments such as: overnight deposits and federal funds.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2105 Notice Requirement/Corrective Action

A holding company shall give immediate written notice of any corrective action ordered or requested by a governmental agency, relative to the financial affairs of the holding company, except those actions ordered by the ~~Director~~ ~~Commissioner~~ of Banks and Real Estate. A holding company shall give written notice prior to acting upon such orders or requests, except when such order is effective immediately upon receipt. The method of transmittal shall be by messenger mail, private messenger service or telefax transmittal. Any such corrective actions required to be performed immediately shall be reported to the ~~Director~~ ~~Commissioner~~ within ~~24~~ ~~twenty-four~~ ~~(24)~~ hours ~~after~~ receipt.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2110 Insider Abuses

Matters or issues resulting from apparent wrongdoing, including insider abuses, shall be brought to the ~~Director's~~ ~~Commissioner's~~ attention within a reasonable period of time by the appropriate management personnel of the holding company. Copies of any required reports including police and FBI reports shall be included with the notification to the ~~Director~~ ~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2200 Determination of the Qualification and Condition of an Out-of-State Acquisition

When requested, the ~~Director~~ ~~Commissioner~~ shall review the laws of any state in order to determine whether the laws of that state expressly authorize an Illinois savings and loan holding company to acquire an association or savings and loan holding company in that state. The ~~Director~~ ~~Commissioner~~ shall issue a finding that such other state law either does or does not provide qualifications and conditions which are unduly restrictive for the acquisition when compared to those imposed by the laws of Illinois.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2300 Disposal of a Subsidiary

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Each Savings and Loan Holding Company disposing of a subsidiary shall give not less than ~~thirty (30)~~ days prior notice of such planned disposition to the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2310 Dividends

The declaration of dividends on capital by a stock savings and loan subsidiary shall be subject to the following restrictions:

- a) No dividends may be declared when the total amount of net worth of such subsidiary is less than that required by the Director~~Commissioner~~ as set forth in Section 1-11 of the Act.
- b) Cash dividends may be declared as often as quarterly on shares of stock, after payment or provision has been made for all expenses, losses, required reserves, and dividends on withdrawable capital. A stock dividend may be declared out of undivided profits at any time.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2320 Officers and Directors List

The secretary of each savings and loan holding company shall submit to the Director~~Commissioner~~ a list of all officers and directors of the savings and loan holding company. This list shall be submitted within ~~ten (10)~~ days after the election of the savings and loan holding company's Board of Directors, and any changes or additions in the list shall be submitted to the Director~~Commissioner~~ within ~~ten (10)~~ days after the occurrence of such change or addition. Along with such list there shall also be submitted an affidavit executed by each officer and director containing a statement ~~that which~~ shall set forth details as to the present and, for the ~~five (5)~~ years preceding the business of every officer and director and the nature of their prior affiliations with any other financial institution, and its subsidiaries, holding company or subsidiary of a financial institution holding company.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2400 Annual Audit Requirements

Every registrant shall cause its books and records to be audited at least once annually by an

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independent Certified Public Accountant. The ~~Director~~ ~~Commissioner~~ shall receive a copy of the Certified Public Accountant's annual report, along with all supporting documentation. The report of audit shall be on a consolidated basis unless, in the Certified Public Accountant's opinion, certain subsidiaries or parent entities should be reported on separately. If separate reports are prepared, they should be prepared on the same basis as the report on the savings and loan company. A "registrant" for purposes of this Section shall refer to each savings and loan holding company subject to Section 3301 A-3 of the Act.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2410 Maintenance of Records

Every registrant shall maintain such corporate books and records as may be necessary to facilitate a full and complete examination of the activities of the entity. While the books and records will be primarily of an accounting nature, certain other records such as minutes of meetings shall be required to document review and approval of activities and plans.

- a) All accounting records shall be maintained in accordance with Generally Accepted Accounting Practices.
- b) All stock entities shall maintain or cause to be maintained on their behalf full and complete lists of stockholders including address, state of residence, Taxpayer Identification Number, amount of stock owned, and any other data considered necessary.
- c) All registrants shall prepare and maintain a full and complete Book of Minutes for meetings of the Board of Directors, Executive Management Committees, and other meetings wherein business of a substantial nature is contemplated or transacted. This requirement shall be in effect for all subsidiary entities of the registrants as well.
- d) Primary records such as Books of Record and Source Documents shall be maintained by the individual registrant for a period of not less than ~~seven (7)~~ years, provided that if a longer retention period is prescribed by another regulatory body having jurisdiction over the registrant, that longer period shall be followed.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2420 Notice of Appointment of CPA

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- a) Notice shall be made to the Director ~~Commissioner~~ of the appointment of the Certified Public Accountant not less than ~~sixty (60)~~ days prior to the fiscal year-end of the savings and loan holding companies. Any change in the Certified Public Accountants shall be forwarded to the Director ~~Commissioner~~ within ~~sixty (60)~~ days ~~after~~ such change along with a letter from the replaced accountant stating whether or not the change was the result of a dispute over the accounting treatment of a material matter.
- b) Copies of the Annual Audit shall be filed, in triplicate, with the Division ~~Office~~ of Banks and Real Estate within ~~ninety (90)~~ days ~~after~~ the fiscal year-end of the registrant.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2500 Savings and Loan Company Filing Fees

Filings pertaining to matters named hereafter shall be subject to the indicated fee. ~~The~~ ~~Such~~ fee shall be paid at the ~~Division~~ Department of Financial and Professional Regulation ~~Office of Banks and Real Estate~~ at the time of filing. Payment shall be by check, draft, or money order made payable to the ~~Division~~ Department ~~Office of Banks and Real Estate~~.

a) Registration fee
 (Section 3301A-3 of the Act)..... \$1,000.00

b) Conversion to Federal Charter
 (Article 6, Section 6-12 of the Act)2,500.00

(Although conversion may occur, if a State-chartered association is held, the Holding Company will still have to be licensed by the Division of Banking ~~Office of Banks and Real Estate~~.)

c) Appeals to the Board of Savings Institutions
 (Article 7, Section 7-20 of the Act)
 (Article 7, Section 7-21 of the Act)

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(Article 7, Section 7-23 of the Act) \$500.00

Each additional party to an appeal to the Board of Savings Institutions shall pay the sum of \$100.00, and shall bear its pro rata share of all expenses incurred in said appeal except as otherwise provided in Section 3307-75 of the Act.

- d) Hearing or Oral Argument – each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument.

(Article 7, Section 7-24 of the Act) \$500.00

Each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument shall bear its pro rata share of all expenses incurred in said proceedings.

- e) Application for Subsidiary Acquisition Fee, Illinois Savings and Loan Holding Company.

(Article 1A-5 of the Act) \$250.00

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2510 Savings and Loan Holding Company Supervisory Fees

- a) Each savings and loan holding company ("SLHC") cooperating under the provisions of the Act as of the close of each calendar year shall pay annually to the ~~Director Commissioner~~ a fee of \$5.00 per million dollars of consolidated assets (excluding the assets of any Illinois State-chartered savings and loan association or savings bank) of the SLHC and its subsidiaries. Such fee shall be based on the total assets of each SLHC and each subsidiary as shown by its financial report filed with the ~~Director Commissioner~~ for the reporting period ended December 31. Such fees shall be for the calendar year then ended. Computations shall omit hundreds from the total assets and the fee shall be rounded to the nearest dollar amount.

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- b) One fourth of the sum of the supervisory fee so determined shall be remitted at the time of each calendar quarter end. A calendar quarter end shall mean March 31, June 30, September 30, and December 31. Such fees shall be for the respective current calendar year.
- c) Supervisory fees shall be determined by the Director Commissioner within ~~ninety (90)~~ days following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any such fees billed at a later date.
- d) In the situation where service corporations and/or finance subsidiaries are owned by the Association, the owned assets may be consolidated with the assets of the Association for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the Director Commissioner shall waive that portion of the fee attributed to the finance subsidiary.
- e) In the event the State charter is converted or otherwise surrendered during the course of the year, the Director Commissioner shall determine the supervisory fee based on the total assets of the Association as of the month-end immediately preceding the cancellation of the State charter, except that the measurement date may be another date at the discretion of the Director Commissioner in the event an Association elects to liquidate. In determining whether to set another measurement date, the Director Commissioner shall consider the following elements: whether the association is undergoing a planned liquidation (where an association elects to not continue operations), or, the association has transferred significant assets (more than ~~.5%~~ of 1% of the total assets at the previous measurement date).

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2520 Examination Fees

Time expended in the conduct of any examination of the affairs of any association or service corporation pursuant to the provisions of Section 7-5(a) of the Act or applicable service corporation undertakings, respectively, shall be billed by the Director Commissioner at a rate of \$29.00 per examiner hour. Such fee shall be billed within ~~forty-five (45)~~ days following completion of the respective examination. In the situation where examination procedures are performed at out-of-state locations, the examination fee of \$29.00 per hour plus travel, lodging and per diem shall be assessed. Additionally, travel time shall be billed at the examination rate

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of \$29.00 per hour.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2530 Conditions

- a) No submission subject to a fee shall be considered complete without the stipulated fee.
- b) The fee shall be non-refundable regardless of the subsequent action with respect to the submission.
- c) The ~~Director~~ ~~Commissioner~~ may waive the payment of the applicable fee otherwise required by Sections 1000.2500 and 1000.2510 when;
 - 1) The ~~Director~~ ~~Commissioner~~ determines that the respective Conversion to a Federal Charter avoids the need for the ~~Director~~ ~~Commissioner~~ to take custody of the respective association pursuant to the provisions of Article 7, Section 7-8 of the Act.
 - 2) The ~~Director~~ ~~Commissioner~~ determines that the respective fee is excessive or poses an undue restraint on sound business practice.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.2540 Manner of Payment

Each invoice for a fee billed by the ~~Director~~ ~~Commissioner~~ pursuant to Sections 1000.2500, 1000.2510 and 1000.2520 of this Subpart shall be due and payable upon receipt of same by the association or service corporation. Payment shall be by check, draft or money order made payable to the ~~Division~~ Department of Financial and Professional Regulation ~~Office of Banks and Real Estate~~.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART P: HIGH RISK HOME LOANS

Section 1000.3000 Definitions

"Approved Credit Counselor" means a credit counselor as approved by the

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Director of the ~~Division~~ ~~Department~~ of Financial Institutions.

"Good faith" means honesty in fact in the conduct of the transaction.

"High risk home loan" means a home equity loan on residential real property in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2000, no subsequent amendments or editions are included).

"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a tablefunded transaction, not otherwise included in 12 CFR 226.4.

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"Servicer" means any entity chartered under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder, or for a licensee's own account, of payments, interest, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.3150 Verification of Ability to Pay Loan

The lender shall verify the borrower's ability to repay the loan in the case of high risk home loans. Such verification shall require, at a minimum, the following:

- a) The borrower prepares and submits to the lender a personal income and expense statement in a form prescribed by the ~~Director~~ Commissioner who may permit the use of other forms such as the URLA (Fannie Mae Form 1003 (10/92), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, DC 20016-2892 and Freddie Mac Form 85 (10/92), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions) and Transmittal Summary (Fannie Mae Form 1077 (3/97), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, DC 20016-2892 and Freddie Mac Form 1008 (3/97), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions).
- b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.
- c) A credit report is obtained regarding the borrower.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.3550 Counseling Prior to Perfecting Foreclosure Proceedings

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- a) In the event that a high risk home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek consumer credit counseling.
- b) The notice required in subsection (a) shall, at a minimum, include the following language:
- "YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION-DIVISION OF BANKING~~OFFICE OF BANKS AND REAL ESTATE.~~"
- c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor and the approved consumer credit counselor advises the lender or its agent that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.
- d) If, within the 30-day period provided under subsection (c), the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.
- 1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. No modification of an approved debt management plan can be made without the mutual agreement of the lender or its agent, the approved consumer credit counselor, and the borrower.
 - 2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.
- e) If the borrower fails to comply with the agreed debt management plan, then

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nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.

- f) This Section applies only to high risk home loans as defined by Section 1000.3000.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.3600 Mortgage Awareness Program

- a) The Mortgage Awareness Program is a counseling and educational component that is provided by the Director of the Department of Financial [and Professional Regulation-Division of Financial](#) Institutions.
- b) The core curriculum of the Mortgage Awareness Program shall include:
- 1) Explanation of the amount financed;
 - 2) Explanation of the finance charge;
 - 3) Explanation of the annual percentage rate;
 - 4) Explanation of the total payments;
 - 5) Explanation of the loan costs, including broker's fees, finance charges, points, origination fees;
 - 6) Explanation of the right of recession;
 - 7) Explanation of foreclosure procedures;
 - 8) Explanation of the significant debt ratios, including total debt to income, loan debt to income, and loan debt to value of residence;
 - 9) Explanation of adjustable rate mortgage;
 - 10) Explanation of balloon payments;
 - 11) Explanation of credit options;

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- 12) Explanation of each item that appears on a good faith estimate;
 - 13) Explanation of pre-payment penalties.
- c) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet, on forms provided by the ~~Director~~Commissioner.
 - d) Prior to signing a certificate of completion, counselors shall privately discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or may be contemplating and provide a third party review to establish the affordability of the loan.
 - e) Counseling session attendees must also be given a brochure that contains information covered by the Mortgage Awareness Program.
 - f) Any lender, prior to making a high risk home loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.
 - g) No lender shall offer less favorable loan terms to a borrower due to a borrower's participation in a Mortgage Awareness Program.
 - h) Except as prohibited elsewhere in this Subpart, the borrower may waive participation in the program, provided that such waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (f) and that ~~thesuch~~ waiver is in writing in a form approved by the ~~Director~~Commissioner.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.3650 Report of Default and Foreclosure Rates on Conventional Loans

- a) On or before October 1 and April 1 of each year, each association that is a servicer of Illinois residential mortgage loans shall report to the ~~Director~~Commissioner the default and foreclosure data of conventional loans for the ~~six~~ month periods ending June 30 and December 31, respectively.
- b) Each association shall report:
 - 1) The average quarterly dollar amount of conventional 1-4 family mortgage

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loans secured by Illinois real estate.

- 2) The average quarterly number of conventional 1-4 family mortgage loans secured by Illinois real estate.
 - 3) The average quarterly dollar amount of conventional 1-4 family mortgage loans secured by Illinois real estate that are in default over 90 days.
 - 4) The average quarterly number of conventional 1-4 family mortgage loans secured by Illinois real estate that are in default over 90 days.
 - 5) The dollar amount of foreclosures on 1-4 family conventional loans completed during the reporting period.
 - 6) The number of foreclosures on 1-4 family conventional loans completed during the reporting period.
 - 7) Whether any of the loans where a foreclosure was completed were originated less than 18 months before the completed foreclosure.
 - 8) Whether any of the loans where a foreclosure was completed had a note rate greater than 10% for first lien mortgage loans or greater than 12% in the case of a junior lien.
- c) An officer of the association shall sign the form.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

| **Section 1000.3700 Director's Commissioner's Review and Analysis**

- | a) The Director Commissioner shall review and analyze the default and foreclosure rate date reports submitted under Section 1000.3650.
- b) The reports and their analyses may be used:
- 1) In setting the scope of a regularly scheduled examination.
 - 2) In setting the scope of a special examination.
 - 3) In comparing the reported information of an association to other

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associations subject to this Act.

- 4) In comparing the reported information of an association to the reports submitted by associations and charters under other Acts.
- c) The Director ~~Commissioner~~ may correspond with an association to seek clarification of information contained in its report and to gather additional data concerning loans in default or loans in foreclosure.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.3750 Third Party Review of High Risk Home Loans

In the case of any high risk home loan, the borrower shall be afforded the opportunity to seek independent review by the Division of Banking ~~Office of Banks and Real Estate~~ of the loan terms, in order to determine affordability of the loan, when and if the General Assembly appropriates adequate funding to the Division ~~Office of Banks and Real Estate~~ specifically for this program.

- a) Every borrower who chooses to participate in the independent review provided in this Section shall submit information requested on the worksheets outlined in Appendix A and B.
- b) The Division ~~Office of Banks and Real Estate~~ shall provide the borrower with a review of the worksheets and shall also inform the borrower of the amount the borrower has available for a monthly mortgage payment based upon the borrower's budget.
- c) In addition, the Division ~~Office of Banks and Real Estate~~ shall review loan information pertaining to balloon payments and adjustable interest rates and other items disclosed by the loan documents affecting amount of payment and shall inform the borrower of such items.
- d) The borrower shall receive a copy of the completed forms and shall sign the forms acknowledging receipt. A copy of the written and signed forms shall be submitted to the lender prior to the closing of the loan and shall become a part of the permanent file for the loan.
- e) If, based upon the review, the borrower determines that the loan is not in his or her best economic interest, the reviewer shall so note this in the completed forms

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sent to the lender. This determination shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART Q: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATION

Section 1000.4010 Definitions

For purposes of this Subpart:

"Act" means the Illinois Savings and Loan Act of 1985 [205 ILCS 105].

"~~Director~~~~Commissioner~~" means the Director of the Department of Financial and Professional Regulation-Division of Banking~~Commissioner of Banks and Real Estate~~, or a person authorized by the Director ~~Commissioner~~ to act in the Director's ~~Commissioner's~~ stead.

"Compelling" need means that no other non-confidential source is available to obtain information of equal relevance.

"Complete request" means a request that provides all of the information required in Section 1075.4030 of this Subpart.

"Confidential supervisory information" shall have the same meaning ascribed to that term in Section 7-9 of the Act [205 ILCS 105/7-9].

"Person" shall have the same meaning ascribed to that term in Section 1-10.14 of the Act [205 ILCS 105/1-10.14].

"Relevant" means the requested confidential supervisory information could substantially contribute to the resolution of the issues identified in the pleadings contained within the request.

"Requester" means any person who makes a request for the discovery or disclosure of confidential supervisory information, whether by subpoena, order, or other judicial or administrative process.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

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Section 1000.4020 Purpose and Scope

- a) Purpose. The purpose of this Subpart is to establish the procedures and standards by which the ~~Director~~ ~~Commissioner~~ shall determine whether to disclose confidential supervisory information in response to a request for discovery or disclosure of ~~that~~~~such~~ information.
- b) Scope. This Subpart applies to requests, whether by subpoena, order, or other judicial or administrative process, for discovery or disclosure of confidential supervisory information prepared or obtained by the ~~Director~~ ~~Commissioner~~ under the Act and any report of examination, visitation or investigation prepared by the state regulatory authority of another state that examines a branch of an association in that state. This Subpart does not apply to:
- 1) a request made pursuant to the Freedom of Information Act [5 ILCS 140] (FOIA), provided that, if the information requested constitutes confidential supervisory information, it shall nonetheless be exempt from disclosure pursuant to Section 7(l)(x) of FOIA;
 - 2) a request made by a party to whom the ~~Director~~ ~~Commissioner~~ may furnish confidential supervisory information as permitted in Section 7-9 of the Act [205 ILCS 105/7-9]; or
 - 3) a request made by a party to whom a savings bank or other financial institution may furnish confidential supervisory information as permitted in Section 7-9(b) of the Act [205 ILCS 105/7-9].

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.4030 Requests for Confidential Supervisory Information

Pursuant to Section 7-9 of the Act [205 ILCS 105/7-9], a request for confidential supervisory information arising from an adversarial matter, whether by subpoena, order, or other judicial or administrative process, shall be made to the ~~Director~~~~Commissioner~~. If the request is for a record, the requester must adequately describe the records sought by type and date. Such request shall be accompanied by:

- a) a copy of the formal complaint or pleading setting forth the assertions of the adversarial matter;

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- b) the caption and docket number assigned to the adversarial proceeding;
- c) the name, address, and telephone number of designated legal counsel to each party named in the adversarial proceeding;
- d) a statement detailing the relevance of the requested confidential supervisory information;
- e) a statement detailing a compelling need for the requested confidential supervisory information;
- f) a statement describing any prior judicial decisions or pending motions in the case that may bear on the asserted relevance of the requested information; and
- g) a statement detailing why the requester believes that the compelling need outweighs the public interest considerations in maintaining confidentiality and why the compelling need outweighs the burden on the ~~Division Office of Banks and Real Estate~~ to produce the requested confidential supervisory information.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.4040 Where to Submit a Request

A person requesting discovery or disclosure of confidential supervisory information under this Part shall mail, or hand deliver, the request to:

Department of Financial and Professional Regulation-~~Division of Banking Office of Banks and Real Estate~~
Bureau of Residential Finance/Thrift Division
310 South Michigan Avenue, Suite 2130
Chicago, Illinois 60604-4278
Attention: Thrift Legal Counsel

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.4050 Consideration of Requests

- a) Standards for the Disclosure of Confidential Supervisory Information. When making a determination with respect to the disclosure of confidential supervisory information, the ~~Director Commissioner~~ shall consider the following standards:

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- 1) the confidential supervisory information identified in the request is relevant;
 - 2) a compelling need exists;
 - 3) if the requested confidential supervisory information is to be used in connection with an adversarial matter, the lawsuit or administrative action has been filed; and
 - 4) the production and disclosure of the confidential supervisory information is not unduly burdensome to the Division~~Office~~ ~~of Banks and Real Estate~~.
- b) In determining whether to disclose the requested confidential supervisory information, the Director ~~Commissioner~~ may inquire into the circumstances of any case underlying the request and rely on sources of information other than the requester, including other parties.
- c) Time Required by the Director ~~Commissioner~~ to Respond. The Director~~Commissioner~~, within 15 days, shall determine whether to disclose the requested confidential supervisory information. The 15-day time period shall not commence until the Director ~~Commissioner~~ receives a complete request. If the request is not complete, the Director ~~Commissioner~~ shall notify the requester of the required information that has not previously been provided.
- d) Notice to Other Parties. Following receipt of a complete request for confidential supervisory information, the Director ~~Commissioner~~ may notify the association or Illinois association holding company (SLA foreign associations) office that is the subject of the requested information, unless the Director ~~Commissioner~~ determines that to do so would advantage or prejudice any of the parties in the matter at issue.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.4060 Disclosure of Confidential Supervisory Information

- a) Conditions and Limitations. The Director ~~Commissioner~~ may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of such information. Except as authorized by the Director~~Commissioner~~, no person obtaining access to

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confidential supervisory information under this Subpart may make a copy of the confidential supervisory information.

- b) **Restrictions on Dissemination of Confidential Supervisory Information.** The ~~Director Commissioner~~ may condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in the particular case or on a written agreement of confidentiality. In a case in which a protective order or agreement has already been entered between parties other than the ~~Director Commissioner~~, the ~~Director Commissioner~~ may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The ~~Director Commissioner~~ may authorize a party who obtained the records for use in one case to provide them to another party in another case, subject to any conditions that the ~~Director Commissioner~~ may impose on either or both parties.
- c) **Notification of Parties and Procedures for Sharing and Using Confidential Supervisory Information in Litigation.** The requester shall promptly notify other parties to a case of the release of confidential supervisory information obtained pursuant to this Subpart and, upon entry of a protective order, shall provide copies of confidential supervisory information to the other parties.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.4070 Retrieval and Destruction of Previously Disclosed Confidential Supervisory Information Used in Litigation

At the conclusion of an action:

- a) the requester shall retrieve the disclosed confidential supervisory information from the judicial or administrative file as soon as the presiding judicial or administrative authority no longer requires the information;
- b) the requester, and each party who may have subsequently received confidential supervisory information pursuant to a protective order, shall destroy the disclosed confidential supervisory information covered by the protective order; and
- c) each party shall certify to the ~~Director Commissioner~~ that the disclosed confidential supervisory information covered by the protective order has been destroyed.

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(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.4080 Fees for Services

- a) The ~~Director~~ ~~Commissioner~~ may charge the following fees for any record search or copying performed by the ~~Director~~ ~~Commissioner~~:
- 1a) Reproduction costs incurred in making photocopies of documents shall be reimbursed at \$.25 per exposure.
- 2b) All other costs, including but not limited to the cost of telephone calls, telegrams, and shipping incurred in searching for and transporting data pursuant to a request for confidential supervisory information shall be reimbursed at actual costs.
- b) The ~~Director~~ ~~Commissioner~~ may require a requester to remit payment prior to providing the requested confidential supervisory information.

(Source: Amended at 30 Ill. Reg. 18990, effective December 1, 2006)

SUBPART R: PAYDAY LOANS

Section 1000.5000 Purpose and Scope

This Subpart applies to associations chartered or operating under the Illinois Savings and Loan Act of 1985 [205 ILCS 105].

(Source: Added at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.5010 Definitions

"Payday Loan" or "loan" means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet or telephone, in which:

A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts

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one or more checks dated subsequent to the date written and agrees to hold them for deposit; or

A lender accepts one or more authorizations to debit a consumer's account; or

A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment.

"PLRA" means the Payday Loan Reform Act [815 ILCS 122]. Associations are expressly exempt from the provisions of the PLRA.

(Source: Added at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.5020 Applicability of Subpart

This Subpart shall apply only to payday loans made by an association. Products and services offered by an association that are not offered by lenders governed by the PLRA shall not be subject to this Subpart.

(Source: Added at 30 Ill. Reg. 18990, effective December 1, 2006)

Section 1000.5030 Issuance of Payday Loans

- a) An association making a payday loan shall satisfactorily address all safety and soundness considerations identified by the Division of Banking in its examination and supervision of the association. Safety and soundness considerations include, without limitation:
- 1) Risk-management practices for payday loan activities, particularly with regard to concentrations of payday loans;
 - 2) Capital adequacy, depending on the level and volatility of risk;
 - 3) Allowance for loan losses to ensure the allowance is adequate to absorb estimated credit losses within the payday loan portfolio;
 - 4) Classification of payday loans, given the unsecured nature of the credit and weakness of repayment capacity inherent in payday loans; and

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- 5) The establishment and maintenance of extension, deferral, renewal and rewrite standards consistent with the PLRA.
- b) In the event the Division of Banking determines the association's management of safety and soundness risks relating to its payday loan portfolio is deficient, the Division of Banking may initiate corrective enforcement action, as authorized under the Illinois Savings and Loan Act of 1985.

(Source: Added at 30 Ill. Reg. 18990, effective December 1, 2006)

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

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1075.100	Amendment
1075.110	Amendment
1075.120	Amendment
1075.130	Amendment
1075.140	Amendment
1075.150	Amendment
1075.200	Amendment
1075.300	Amendment
1075.310	Amendment
1075.410	Amendment
1075.430	Amendment
1075.440	Amendment
1075.450	Amendment
1075.455	Amendment
1075.460	Amendment
1075.465	Amendment
1075.470	Amendment
1075.490	Amendment
1075.510	Amendment
1075.515	Amendment
1075.565	Amendment
1075.570	Amendment
1075.585	Amendment
1075.600	Amendment
1075.610	Amendment
1075.620	Amendment
1075.630	Amendment
1075.640	Amendment
1075.650	Amendment
1075.670	Amendment
1075.680	Amendment
1075.700	Amendment
1075.705	Amendment
1075.710	Amendment
1075.715	Amendment

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1075.725	Amendment
1075.730	Amendment
1075.740	Amendment
1075.750	Amendment
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1075.810	Amendment
1075.900	Amendment
1075.905	Amendment
1075.910	Amendment
1075.915	Amendment
1075.920	Amendment
1075.965	Amendment
1075.970	Amendment
1075.975	Amendment
1075.980	Amendment
1075.990	Amendment
1075.1025	Amendment
1075.1030	Amendment
1075.1035	Amendment
1075.1040	Amendment
1075.1045	Amendment
1075.1050	Amendment
1075.1055	Amendment
1075.1100	Amendment
1075.1105	Amendment
1075.1110	Amendment
1075.1111	Amendment
1075.1115	Amendment
1075.1120	Amendment
1075.1210	Amendment
1075.1215	Amendment
1075.1220	Amendment
1075.1225	Amendment
1075.1230	Amendment
1075.1235	Amendment
1075.1245	Amendment
1075.1250	Amendment
1075.1255	Amendment
1075.1260	Amendment

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1075.1270	Amendment
1075.1275	Amendment
1075.1280	Amendment
1075.1285	Amendment
1075.1290	Amendment
1075.1300	Amendment
1075.1310	Amendment
1075.1315	Amendment
1075.1325	Amendment
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1075.1500	Amendment
1075.1520	Amendment
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1075.1540	Amendment
1075.1600	Amendment
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1075.1620	Amendment
1075.1630	Amendment
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1075.1710	Amendment
1075.1800	Amendment
1075.1805	Amendment
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1075.1965	Amendment
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1075.1975	Amendment
1075.1980	Amendment
1075.1990	Amendment
1075.1995	Amendment
1075.2005	Amendment
1075.2010	Amendment
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1075.2025	Amendment
1075.2035	Amendment
1075.2040	Amendment
1075.2045	Amendment
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1075.2060	Amendment
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1075.2075	Amendment
1075.2080	Amendment
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1075.2120	Amendment
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1075.2170	Amendment
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1075.4050	Amendment
1075.4060	Amendment
1075.4070	Amendment
1075.4080	Amendment
1075.5000	New Section
1075.5010	New Section
1075.5020	New Section
1075.5030	New Section

- 4) Statutory Authority: Payday Loan Reform Act [815ILCS 122] and Illinois Credit Union Act [205 ILCS 305]
- 5) Effective Date of Amendments: December 1, 2006
- 6) Does this rulemaking contain an automatic repeal date? No

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- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: June 23, 2006; 30 Ill. Reg. 10772
- 10) Has JCAR issued a Statement of Objection to these Amendments? No
- 11) Differences between proposal and final version: Nonsubstantive changes were made. Also, additional existing sections of this Part were added to this rulemaking for the purpose of making nonsubstantive changes in the text consistent with the nonsubstantive changes made in this rulemaking. Sections added for this purpose were Sections 1075.1855, 1075.1860, and 1075.1865.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Payday Loan Reform Act requires the Department to promulgate regulatory standards that address a number of business practices concerning payday loans. Makes numerous non-substantive changes, including changing references throughout the entire Part from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.
- 16) Information and questions regarding this rulemaking shall be directed to:

Barb Smith	217/785-0813
Rules Coordinator	Fax: 217/557-4451
Department of Financial and Professional Regulation	
320 West Washington Street, 3 rd Floor	
Springfield, Illinois 62786	

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

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TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL
REGULATION~~OFFICE OF BANKS AND REAL ESTATE~~PART 1075
SAVINGS BANK ACT

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1075.130	Supervisory Fees
1075.140	Adjusted Supervisory Fees
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1075.410	Minimum Capital Requirement
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1075.470	Deceptively Similar Names
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1075.520	Construction Loans
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1075.530	Overdraft Loans
1075.535	Education Loans
1075.540	Vehicle/Automobile Loans
1075.545	Home Equity Loans
1075.550	Letter of Credit
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Section

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1075.1150	Employee (Repealed)
1075.1155	Equity Security (Repealed)
1075.1160	Insured Institution (Repealed)
1075.1165	Member (Repealed)
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1075.1275	Dividend Limitations and Waivers
1075.1280	Officers and Organization Directors List
1075.1285	Access to Books and Records
1075.1290	Annual Audit Requirements
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1075.1300	Notice of Appointment of Independent Accountants
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- 1075.2120 Additional Filing Requirements
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- 1075.2160 Amendments to Charter Required in Application – Articles of Incorporation – Filing of Certificate Required – Contents – Issuance and Filing of Authorization Certificate
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Section

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1075.4020	Purpose and Scope
1075.4030	Requests for Confidential Supervisory Information
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1075.4070	Retrieval and Destruction of Previously Disclosed Confidential Supervisory Information Used in Litigation
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1075.APPENDIX A Estimated Monthly Income and Expenses Worksheet

1075.APPENDIX B Mortgage Ratio Worksheet

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

SOURCE: Emergency Rules adopted at 14 Ill. Reg. 15029, effective September 4, 1990, for a maximum of 150 days; adopted at 15 Ill. Reg. 1916, effective January 25, 1991; amended at 16 Ill. Reg. 4891, effective March 16, 1992; amended at 17 Ill. Reg. 8894, effective June 7, 1993; expedited correction at 17 Ill. Reg. 18223, effective June 7, 1993; emergency amendment adopted at 18 Ill. Reg. 7016, effective April 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15094, effective September 26, 1994; emergency amendment at 19 Ill. Reg. 10277, effective June 29, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15474, effective October 31, 1995; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6719, effective March 30, 1998; amended at 24 Ill. Reg. 73, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 6986, effective April 24, 2000, for a maximum of 150 days; emergency expired on September 20, 2000; amended at 24 Ill. Reg. 15026, effective September 26, 2000; emergency amendment at 24 Ill. Reg. 19331, effective December 15, 2000, for a maximum of 150 days; emergency amendment repealed at 25 Ill. Reg. 3698, effective January 30, 2001, in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1858; amended at 25 Ill. Reg. 6197, effective May 17, 2001; amended at 26 Ill. Reg. 13483, effective September 13, 2002; emergency amendment at 27 Ill. Reg. 16043, effective September 29, 2003, for a maximum of 150 days; emergency amendments suspended at 27 Ill. Reg. 18485, effective November 18, 2003; emergency suspension withdrawn at 28 Ill. Reg. 409, effective December 16, 2003; emergency repealed at 28 Ill. Reg. 427, effective December 16, 2003, in response to the objection and suspension of the Joint Committee on Administrative Rules; amended at 28 Ill. Reg. 807, effective December 29, 2003; amended at 28 Ill. Reg. 7285, effective May 7, 2004; amended at 30 Ill. Reg. 19068, effective December 1, 2006.

SUBPART A: FILINGS

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Section 1075.100 Filings

Filings pertaining to matters named hereafter shall be subject to the indicated fee pursuant to the Savings Bank Act ("the Act") [205 ILCS 205]. Such fee or fees shall be paid at the Department of Financial and Professional Regulation-Division of Banking ~~Office of Banks and Real Estate (Division)~~ at the time of filing. Payment shall be by check, draft or money order made payable to the Division~~Department of Financial and Professional Regulation (Department)~~ ~~Office of Banks and Real Estate~~.

- a) Permit to Organize
(Section 3001 of the Act)..... \$ 1,000
- b) Merger
(Section 8005 of the Act)..... \$ 1,000
- c) Sale of Assets
(Section 8010 of the Act)..... \$ 1,000
- d) Amendment to Articles of Incorporation
~~Providing~~providing for the Issuance of Permanent Reserve Shares
(Section 5004 of the Act) (Section 1075.400 of this Part) \$ 1,000
- e) Conversion from Savings Bank Charter to any Federal Charter
(Section 8001 of the Act)..... One ~~(1)~~ times the last total annual Supervisory Fee calculated and assessed against the Savings Bank as set forth in Section 1075.130(a) and (b).

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- f) Hearing or Oral Argument – each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument (Section 9018 of the Act)
(Sections 1075.725 and 1075.900 of this Part)..... \$ 500
Each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument shall bear its pro rata share of all expense incurred in said proceedings.
- g) Application for Subsidiary Acquisition Fee
(Section 2004 of the Act)..... \$ 250
- h) Conversion from Mutual to Capital Stock Form of Ownership
(Section 5004 of the Act) (Subpart O of this Part)..... \$10,000
- i) Acquisition of Control of a Savings Bank
(~~Sections~~Section 5002, 5004 and 5006 of the Act) (Subpart N of this Part)..... \$ 500
- j) Photocopy and Duplication Fees
- 1) Photocopies (per page) \$.25
 - 2) Savings Bank Act (bound edition)..... \$ 25
 - 3) Rules (bound edition) \$ 25
 - 4) Annual Report (additional copies)..... \$ 25
 - 5) Mailing Labels \$ 35
- k) Holding Company Registration Fee
(Section 2002 of the Act)..... \$ 1,000

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- l) Application for Subsidiary Acquisition Fee, Illinois Savings Bank Holding Company (Section 2004 of the Act)..... \$ 250
- m) The following fees apply to mutual holding company transactions:
 - 1) Mutual Holding Company Reorganization with resulting savings bank stock offered to party other than the mutual holding company (Section 2007 of the Act)..... \$10,000
 - 2) Mutual Holding Company Reorganization with no resulting savings bank stock offered to any party except the mutual holding company (Section 2007 of the Act)..... \$ 3,000
 - 3) Subsequent Offerings:
 - A) First ~~Offering~~ offering of resulting ~~savings bank~~ Savings Bank stock to a party other than the ~~mutual holding company~~ Mutual Holding Company after reorganization described in subsection (m)(2) of this Section..... \$ 7,000
 - B) All other ~~offerings~~ Offerings to a party other than the ~~mutual holding company~~ Mutual Holding Company \$ 1,000
 - 4) Conversion of Mutual Holding Company to Stock Holding Company (Section 2007 of the Act)..... \$10,000

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.110 Conditions

- a) No submission subject to a fee shall be considered complete without the stipulated fee.

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- b) The fee shall be non-refundable regardless of the subsequent action with respect to the submission.
- c) The ~~Director~~ ~~Commissioner~~ may waive the payment of the applicable fee otherwise required by this Section and Section 1075.100 of this Part when:
- 1) the ~~Director~~ ~~Commissioner~~ determines that the respective merger or bulk sale of assets avoids the need for the ~~Director~~ ~~Commissioner~~ to take custody of the respective savings bank pursuant to Section 10001 of the Act; or
 - 2) the establishment of a branch office is at the location of the home office of the savings bank which ceases to exist as the result of a merger or bulk sale of assets which avoids the need for the ~~Director~~ ~~Commissioner~~ to take custody of the respective savings bank pursuant to Section 10001 of the Act; or
 - 3) the termination of operation and closing of a branch office pertains to a branch office of a savings bank which ceases to exist as the result of a merger or bulk sale of assets which avoids the need for the ~~Director~~ ~~Commissioner~~ to take custody of the respective savings bank pursuant to Section 10001 of the Act and the closing of the respective branch office is a condition stipulated in the plan of the respective merger or bulk sale of assets.
- d) Should a person desire to submit any information it considers to be of a confidential nature as part of a submission, such information shall be separately bound and labeled in capital letters, "CONFIDENTIAL", and a statement shall be submitted with the bound copy briefly setting forth the grounds on which such information should be treated as confidential. Only general reference need be made of that "CONFIDENTIAL" portion in the portion of the submission that the applicant considers not to be confidential. If any material has been granted confidential treatment under State or federal law or by a government agency or a court, those circumstances should be described. All materials filed are available for inspection, except for portions that are bound and labeled in capital letters, "CONFIDENTIAL", and that the ~~Director~~ ~~Commissioner~~ determines to hold from public availability because of their confidential nature. The ~~Director's~~ ~~Commissioner's~~ determination to hold material from public inspection shall be based on considerations of safety and soundness of the applicant, the propriety

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nature of the material, privacy of the applicants or their organization directors, officers, employees or customers, or on the treatment of the material by other government agencies or by the courts. The Director~~Commissioner~~ will not permit public inspection or copying of any material that is or would be confidential under State or federal law. The Director~~Commissioner~~ will advise the party filing the submission of any decision to make available to the public information labeled in capital letters, "CONFIDENTIAL". It should be understood that it may be necessary for the Director~~Commissioner~~ to release materials previously given confidential treatment. It should be further understood that even though parts of the submission are considered confidential as far as public inspection is concerned, the Director~~Commissioner~~ may comment on the confidential portions of submissions, without prior notice, in any public statement in connection with the Director's~~Commissioner's~~ decision on the submission.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.120 Examination Fees

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

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.130 Supervisory Fees

- a) The Director~~Commissioner~~ shall receive, and there shall be paid to the Director~~Commissioner~~ by each savings bank and each service corporation

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operating under the Act, a fixed fee of \$600, plus a variable fee based on the total assets of each savings bank and each service corporation as shown on the financial report filed with the ~~Director~~Commissioner for the reporting period of the prior calendar year ended December 31, 1999 and every year thereafter according to the following schedule:

28.82¢ per \$1,000 of the first \$2,000,000 of total assets,

26.2¢ per \$1,000 of the next \$3,000,000 of total assets,

23.58¢ per \$1,000 of the next \$5,000,000 of total assets,

19.65¢ per \$1,000 of the next \$15,000,000 of total assets,

17.03¢ per \$1,000 of the next \$25,000,000 of total assets,

14.41¢ per \$1,000 of the next \$50,000,000 of total assets,

11.79¢ per \$1,000 of the next \$400,000,000 of total assets,

7.86¢ per \$1,000 of the next \$500,000,000 of total assets, and

5.24¢ per \$1,000 of all total assets in excess of \$1,000,000,000 of such savings bank or service corporation.

~~When in the situation where~~ service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle (Mortgage Backed Securities, Real Estate Mortgage Income Certificates, and other securitized debt instruments), the ~~Director~~Commissioner shall waive that portion of the fee attributed to the finance subsidiary.

- b) ~~The Commissioner shall receive and there shall be paid to the Commissioner by each~~Each savings bank ~~shall pay to the Department~~ a fee of \$600 for each approved branch office or facility office established under Subpart G of this Part. The determination of such fees shall be made annually as of the close of business of the prior calendar year ended December 31.
- c) One fourth of the sum of the supervisory fee so determined shall be remitted as

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billed by the ~~Director~~Commissioner. Such fees shall be for the respective current year. Fees payable for the third and fourth calendar quarters of 2003 shall be recalculated using total assets as of December 31, 2002, and the amended fees provided in subsections (a) and (b) of this Section. One fourth of the sum of the supervisory fee determined based on the amended fee schedule shall be remitted as billed for the third and fourth calendar quarters of 2003.

- d) Subject to the requirements of subsection (c) of this Section for the third and fourth quarters of 2003, supervisory fees shall be determined by the ~~Director~~Commissioner following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any such fees billed at a later date.
- e) In the event the state charter is converted or otherwise surrendered during the year, the ~~Director~~Commissioner shall determine the supervisory fee based on the total assets of the savings bank as of the month-end immediately preceding the cancellation of the state charter, except that the measurement date may be another date at the discretion of the ~~Director~~Commissioner in the event a savings bank elects to liquidate. In determining whether to set another measurement date, the ~~Director~~Commissioner shall consider the following elements: whether the savings bank is undergoing a planned liquidation (where a savings bank elects to not continue operations), or, the savings bank has transferred significant assets (more than ~~.5%½ of 1 percent~~ of the total assets at the previous measurement date).
- f) The ~~Director~~Commissioner may waive part of the first annual supervisory fee specified under subsection (a) ~~above~~, for a savings and loan association that has paid the fee for conversion to federal charter as required under the rules promulgated pursuant to the Illinois Savings and Loan Act of 1985 (38 Ill. Adm. Code 400.110(b)). Such waiver, if any is granted, shall be in accordance with the following schedule:
- 1) for conversions that were completed less than twelve months but greater than six months before the issuance of a savings bank charter, ~~25% percent~~ may be waived; and
 - 2) for conversions that were completed less than six months before the issuance of a savings bank charter, ~~50% percent~~ may be waived.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

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Section 1075.140 Adjusted Supervisory Fees

- a) ~~The Commissioner shall receive and there~~ There shall be paid to the ~~Department Commissioner~~ an additional fee as an adjustment to the supervisory fee specified in Section 1075.130 of this Part, to be based upon the difference between the total assets of each savings bank and each service corporation as shown by its financial report filed with the ~~Director Commissioner~~ for the reporting period of the calendar year ended December 31 on which the supervisory fee was based, and the total assets of each savings bank and each service corporation as shown by its financial report filed with the ~~Director Commissioner~~ for the reporting period of the calendar year ended December 31 in which the quarterly payments referred to in Section 1075.130 of this Part are made according to the following schedule:

28.82¢ per \$1,000 of the first \$2,000,000 of total assets,

26.2¢ per \$1,000 of the next \$3,000,000 of total assets,

23.58¢ per \$1,000 of the next \$5,000,000 of total assets,

19.65¢ per \$1,000 of the next \$15,000,000 of total assets,

17.03¢ per \$1,000 of the next \$25,000,000 of total assets,

14.41¢ per \$1,000 of the next \$50,000,000 of total assets,

11.79¢ per \$1,000 of the next \$400,000,000 of total assets,

7.86¢ per \$1,000 of the next \$500,000,000 of total assets, and

5.24¢ per \$1,000 of all total assets in excess of \$1,000,000,000 of ~~thesueh~~ savings bank or service corporation.

In the situation where service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the ~~Director Commissioner~~ shall waive that portion of the fee attributed to the finance subsidiary.

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- b) Adjusted supervisory fees shall be remitted as billed by the Director Commissioner. In the event the total assets of each savings bank and each service corporation as reported on the earlier financial report are more than the total assets as reported on the later annual report, the Director Commissioner shall credit the next quarterly remittance of the supervisory fee in the same proportion.
- c) In the event the Statestate charter is converted or otherwise surrendered during the year, the Director Commissioner shall determine the supervisory fee based on the total assets of the savings bank as of the month-end immediately preceding the cancellation of the Statestate charter, except that the measurement date may be another date at the discretion of the Director Commissioner in the event a savings bank elects to liquidate. In determining whether to set another measurement date, the Director Commissioner shall consider the following elements: whether the savings bank is undergoing a planned liquidation (where a savings bank elects to not continue operations); or, the savings bank has transferred significant assets (more than .5%½ of 1 percent of the total assets at the previous measurement date).

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.150 Withdrawal of Applications or Other Filings

- a) Unless otherwise specified in the Savings Bank Act [205 ILCS 205] or this Part, an application or other filing submitted under the Savings Bank Act or this Part shall be deemed withdrawn if the person making the filing fails to respond within 120 days after a request by the Director Commissioner for additional documents or information related to the filing. All withdrawn applications or other filings shall be terminated and shall be ineffective. The Director Commissioner may agree to extend the time in which the application or other filing shall be deemed withdrawn unless the Savings Bank Act or this Part requires otherwise.
- b) Notwithstanding subsection (a) of this Section, applications or other filings submitted on or before September 15, 2002 shall not be deemed withdrawn unless the person making the filings fails to respond within 120 days after that date to a request by the Director Commissioner for additional documents or information related to the filing.
- c) Nothing in this Section requires the Director Commissioner to reissue requests for additional documents or information made prior to September 15, 2002.

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NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART B: DEFINITIONS

Section 1075.200 Definitions

Words or terms that are defined in the Act shall retain the same meaning when used in this Part.

"~~Act~~**ACT**" means the Savings Bank Act [205 ILCS 205].

"~~Company~~**COMPANY**" means any corporation, partnership, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, but shall not include any corporation the majority of the shares of which are owned by the United States or by any state.

"~~Controlling Interest~~**CONTROLLING INTEREST**" means a person, or company has a controlling interest in a proposed savings bank, a lender, or a company, if the person, or company:

directly or indirectly or acting through one or more other persons or companies owns, controls, or has power to vote ~~25% percent~~ or more of any class of voting securities at the proposed savings bank, lender, or company; or

controls in any manner the election of the majority of the directors or trustees of the proposed savings bank, lender, or company; or

the ~~Director~~**Commissioner** determines, after a hearing, that the company directly or indirectly exercises a controlling influence over the management policies of the proposed savings bank, lender, or company; or

directly or indirectly, or acting through one or more other persons or companies, owns, controls, or has power to vote ~~25% percent~~ or more of any class of securities that invests the owner, controller, or voter with the right to vote to approve or disapprove of voluntary corporate changes and amendment of the Articles of Incorporation and bylaws.

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

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

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

"LenderLENDER" means a secured or unsecured creditor or creditors named as such in the debt obligation and documents, creating any security interest.

"Organization Director" means any person defined as a Director by Section 1007.55 of the Act.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART C: REPORTS

Section 1075.300 Contracts

- a) Except employment contracts, loans on savings accounts, or contracts with consideration of less than \$25,000, a savings bank shall file with the DirectorCommissioner, within 10 days after the contract's execution, a copy of any contract with the following:
- 1) any person owning 10% percent or more of the outstanding shares of stock of the savings bank, if that savings bank issues stock;
 - 2) any organization director, officer, employee, agent, or attorney of the savings bank;
 - 3) any representative, partner or immediate relative of an officer, organization director or 10% percent shareholder of the savings bank or savings bank holding company;
 - 4) any corporation in which any of the above persons listed in this subsection have a 10% percent interest; or
 - 5) any trust in which any of the above persons listed in this subsection has an interest.

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- b) Any savings bank knowingly entering into a contract with a organization director, officer, or a ~~10%-percent~~ or more shareholder of any other financial institution either directly or with a corporation or trust in which ~~thesueh~~ organization director, officer, or ~~10%-percent~~ or more shareholder owns ~~10%-percent~~ or more of the voting stock of that corporation, or has a beneficial interest in that trust, shall file with the Director Commissioner a copy of the contract within 10 days after its execution.
- c) Every contract entered into by a savings bank of a kind or nature stated in subsection (a) or (b) shall be approved by the board of directors of that savings bank, and that approval shall be reflected in the minutes of the meeting of the board of directors and kept on file at the savings bank.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.310 Financial Reports

Each savings bank shall file quarterly financial reports on ~~such~~ forms ~~as are~~ prescribed by the Director Commissioner. Such reports shall be delivered to the Director Commissioner by the last day of the month following the quarter end for which the report applies. Any savings bank that fails to submit required reports in the time prescribed by this Section shall be subject to fine as provided for in the Act.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART D: OPERATIONS

Section 1075.410 Minimum Capital Requirement

- a) The Director Commissioner may establish a minimum capital level for a savings bank at such amount or at such ratio of capital-to-assets as the Director Commissioner determines to be necessary or appropriate in consideration of the circumstances of the savings bank.
- b) For a financial institution applying to convert to a savings bank charter, the Director Commissioner may accept as being in full compliance with Section 5001 of ~~the~~ The Act a financial institution with less than the minimum capital required ~~in Section 5001 therein~~ if the financial institution has an approved capital plan under the Financial Institutions Reform, Recovery and Enforcement Act of 1989

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(12 ~~USCU.S.C.~~ 1464(5)(s)(5)), and the ~~Director~~Commissioner finds that the financial institution is otherwise being operated in a safe and sound manner. ~~The Director's~~Such determination shall be made after review of financial reports and statements, reports of examination and other ~~such~~ information as the ~~Director~~Commissioner shall consider necessary for making a determination that the financial institution is being operated in a safe and sound manner.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.430 Maintenance of Records

To enable the ~~Director~~Commissioner to examine a savings bank, holding company, service corporation or affiliate of a savings bank pursuant to Section 9004 of the Act, each savings bank shall establish and maintain accounting and other records of all business transacted, and the documents, files and other material comprising such records shall at all times be available for examination wherever any of such files, documents or materials may be. At a minimum, a savings bank and service corporations shall establish and maintain the following records.

- a) **Disbursement Records**

A savings bank's funds shall be disbursed in accordance with a resolution adopted by the board of directors and reviewed at least annually. Each disbursement shall be documented to show the date, the amount and the purpose of the disbursement and the names of the person or persons or other entities receiving such disbursements whether paid directly, indirectly or through an escrow.
- b) **Record Retention**
 - 1) Before approving any loan or issuing any commitment, a savings bank shall determine that every person that proposes to become liable to the savings bank has the financial ability to service the proposed debt. The procedure for determining the financial capacity of every person that proposes to become liable to the savings bank shall be in accordance with procedures adopted by the board of directors and reviewed at least annually. Thereafter, a savings bank shall retain the application and other documentation supporting each loan, as well as the complete servicing record, as part of the records of the savings bank throughout the duration of the savings bank's investment in the respective loan.
 - 2) A savings bank shall retain each rejected loan application and the information in support thereof for a period of thirty-six (36) months

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following such rejection.

- c) The ~~savings bank~~Savings Bank shall:
 - 1) require every borrower that is:
 - A) a trust to provide a certification by the trustee listing the current beneficiaries of the trust;
 - B) a corporation to provide a certification by the corporate secretary listing the names and percentage of ownership of all ~~10% percent~~ or more shareholders; and
 - C) a partnership to provide a certified list of partners.
 - 2) retain such documents as a part of the savings bank's records and that shall be maintained throughout the duration of the savings bank's investment in the respective loan.
- d) Loan Registers
 - 1) A savings bank shall maintain one or more loan registers which shall contain the original entry and be a permanent record, and shall show for every loan the account number, date of the loan, amount of the loan, name of the borrower, nature of security by types, the amount of fees, the amount of the note, including precomputed loans, rate of interest, the term of the loan, and such other information as desired by the savings bank.
 - 2) All loan registers shall be kept numerically by number of loans in order made.
- e) Loans Secured ~~by~~By Real Estate
 - 1) An application for the loan, signed by the borrower or its agent, in such form and containing ~~such~~ information as will disclose the purpose for the loan, that is construction, purchase, refinancing, and the identity of any security property.
 - 2) A note evidencing the borrower's debt to repay the amount of the loan, executed by the borrower or its agent.

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- 3) A copy of the deed of trust or mortgage instrument on the real estate or other document customarily used in the jurisdiction in which the real estate security is located, evidencing the creation of a security interest in the real estate for the benefit of the lender, which deed of trust, mortgage instrument, or other document has been signed by the borrower or the borrower's agent; and, if the loan is made to finance the purchase of the real estate security for the loan, a signed statement by the borrower or its agent, as part of or as an attachment to the application for the loan, disclosing the purchase price of such real estate security.
- 4) One or more written appraisal reports, prepared at the request of the lender or its agent and for the lender's use, and signed before the approval of thesueh application (except in the case of an approval conditioned upon obtaining an appraisal) or, if thesueh loan is an insured loan or a guaranteed loan, a certification of the valuation assigned to real estate security by the appraiser accepted by the insuring or guaranteeing agency and furnished to the lender by thesueh agency. Loans of less than \$250,000 may be supported by estimates of value other than an appraisal, such as in-house appraisals and valuations, previous appraisals, tax assessments, tax assessment valuations, and insurance evaluations.
- 5) Documentation showing the financial ability of the borrower to repay the loan, or a written credit report prepared by the savings bank or by others at the request of the savings bank.
- 6) Documentation showing when and by whom thesueh loan was approved and any terms of thesueh approval.
- 7) Documentation showing the date, amount, purpose, the recipient of every disbursement of the proceeds of thesueh loan, and to the best of the lender's knowledge, any actual recipient of any proceeds when the stated recipient is acting as an agent or intermediary for another.
- 8) An opinion signed by the lender's attorney, a title insurance policy, or other documentary evidence customarily used in the jurisdiction in which the real estate security is located, affirming the quality and validity of the lender's lien on the real estate security for the loan.
- 9) Documentation showing that the savings bank, upon the closing of the

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loan, furnished to the borrower, a loan settlement statement setting forth in detail the charges or fees the borrower has paid or is obligated to pay to such savings bank or to any other concern or person in connection with the loan, which documentation shall include a copy of the loan settlement statement.

- 10) A record showing the status and current payment of taxes, assessments, insurance premiums, other charges on the security for the loan, and documenting any loss incurred on the loan security, as well as any amounts recovered pursuant to an insurance settlement of ~~the~~sueh loss.
 - 11) Documentation evidencing any modifications of the original documents by which a security interest for the benefit of the lender was created, showing appropriate approval of each party to ~~the~~sueh modification.
 - 12) Documentation evidencing any release of any portion of the collateral pledged to secure the loan, showing the portion of the collateral released, the consideration, if any, paid to effect ~~the~~sueh release, and a record of the appropriate approval of each ~~sueh~~-release.
- f) Loans Not Secured ~~by~~By Real Estate
The records with respect to each unsecured loan or loan not secured by real estate that the savings bank makes shall include the documents referred to in subsection (g) ~~that~~above ~~which~~ are relevant to the loan. If the loan is secured by collateral other than real estate, the lender's records also shall include documents evidencing the creation and perfection of a security interest in the collateral, including any financing statement. In addition, if the loan is made to a business entity, the records shall include documentation showing whether the obligor on the loan can generate sufficient cash flow to meet scheduled interest and debt reduction payments, and if not sufficient, the records shall include documentation demonstrating the anticipated source of the borrower's payments.
- g) Transfer of Records
A savings bank shall not transfer the location of any of its general accounting or control records from its home office to a branch or other office, or from a branch or other office to its home office or to another branch or office unless the savings bank has sent prior written notice of ~~the~~sueh transfer to the ~~Director~~Commissioner.
- h) Data Processing

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- 1) A savings bank ~~that~~~~which~~ maintains its records by a data processing service shall, before establishing such service, notify the ~~Director~~~~Commissioner~~ in writing. ~~The~~~~Such~~ notice shall be delivered at least 90 days before the date on which ~~the~~~~such~~ maintenance of records will begin. ~~The~~~~Such~~ notification shall include identification of the records to be maintained by data processing services and a statement as to the location at which ~~the~~~~such~~ information will be maintained. Any contract shall expressly provide that the records to be maintained by ~~the~~~~such~~ services shall at all times be available for examination by the ~~Director~~~~Commissioner~~.
- 2) A savings bank's data processing service center shall provide, annually, a copy of the third party audit review, if performed.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.440 Business Plan

- a) All savings banks whose operations are considered unsafe or unsound by the ~~Director~~~~Commissioner~~ pursuant to the Act or who have total capital less than the amount required under Section 5007 of ~~the~~~~The~~ Act, or any condition ~~that~~~~which~~ would endanger the ongoing viability of the savings bank, shall develop a business plan and have the same available for review by the examiners. The period covered by the business plan shall not be less than one ~~(1)~~ year, but may be for any greater number of periods that the ~~Director~~~~Commissioner~~ may require. Each ~~such~~-plan shall contain the following:
 - 1) introduction;
 - 2) mission statement;
 - 3) corporate objectives;
 - 4) corporate strategies; and
 - 5) financial projections for the period covered by the business plan.
- b) The savings bank's business plan shall be reviewed to determine its continued viability in accordance with current economic conditions and approved or revised, as determined by the board of directors, at least annually.

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.450 Excess Insurance

- a) Section 1005 of ~~the~~The Act allows savings banks to secure deposit insurance in excess of the amounts available under federally sponsored programs. ~~The~~Such excess insurance may be obtained only through an entity authorized to do business in this State and which is under the regulation of the ~~Division~~Illinois Department of Insurance. Providers of excess insurance must be preapproved by the ~~Director~~Commissioner. Each approved insurer shall be found to be financially sound and to employ approved actuarial practices.
- b) Before entering into an agreement to obtain excess insurance a savings bank must notify the ~~Director~~Commissioner of its intent. ~~The~~Such notice shall include a copy of the proposed contract and sufficient information regarding the proposed insurer to allow the ~~Director~~Commissioner to determine as to the financial stability of the proposed insurer. The ~~Director~~Commissioner shall have ~~thirty~~(30) days in which to notify the savings bank of any ~~objections~~objection(s) that the ~~Director~~Commissioner may have. Any request for additional information that the ~~Director~~Commissioner may make shall be made within ~~twenty~~(20) days ~~after~~of receipt of the notice. Failure of the ~~Director~~Commissioner to notify the savings bank within the ~~thirty~~(30) days as prescribed in this subsection above shall constitute a finding of no objection.
- c) To obtain approval from the ~~Director~~Commissioner, any prospective provider of excess insurance shall agree to provide the ~~Director~~Commissioner with any information he or she considers necessary to determine as to the current and continuing financial condition of the proposed insurer. This information shall include but not be limited to the following:
- 1) quarterly financial reports;
 - 2) report of audit conducted by an independent certified public accountant;
 - 3) copies of minutes of board of directors' meetings; and
 - 4) copies of examination reports made by examiners for any regulatory agency.

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- d) Any insurer shall agree as a condition of approval to submit to examination by the Director~~Commissioner~~. The cost of any such examination shall be paid by the insurer. The cost of the examination shall be based on the same fee schedule that applies to savings banks.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.455 Vacancies in the Board of Directors

If one ~~(1)~~ or more vacancies occur on a board of directors of a savings bank, the remaining organization directors may continue management of the savings bank, including consenting to any enforcement actions or any other regulatory or supervisory requirements. If the number of organization directors falls below ~~five (5)~~, the remaining organization directors or the officers of the savings bank shall so inform the Director~~Commissioner~~ within ~~five (5)~~ business days ~~after~~ the loss of the fifth organization director. The remaining organization directors shall elect temporary organization directors at the next regular or special meeting of the board of directors. Temporary organization directors' terms shall expire at the next regular or special meeting of voting members of the savings bank.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.460 Bond of Officers, Organization Directors, Employees and Agents

Every savings bank shall maintain bond coverage with a bonding company acceptable to the Director~~Commissioner~~ for every officer, organization director, employee and agent of the savings bank or such other persons in positions requiring the receipt, payment, management or use of money belonging to the savings bank or whose duties permit or require access to or custody of a savings bank's assets or require the making of entries on the books and records of the savings bank.

- a) Bond Schedule. The minimum amount of ~~such~~ bond shall be based on total consolidated assets of the savings bank and its subsidiaries in accordance with the following schedule:

<u>Total Assets</u>	<u>Minimum Coverage</u>
Less than \$1,000,000	\$135,000.

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\$1,000,001 to \$10,000,000	\$135,000 plus \$25,000 for each \$1,000,000 or fraction thereof over \$1,000,000.
\$10,000,001 to \$50,000,000	\$360,000 plus \$50,000 for each \$5,000,000 or fraction thereof over \$10,000,000.
\$50,000,001 to \$500,000,000	\$760,000 plus \$75,000 for each \$25,000,000 or fraction thereof over \$50,000,000.
Over \$500,000,000	\$2,110,000 plus \$100,000 for each \$50,000,000 over \$500,000,000.

- b) No savings bank shall be required to maintain bond coverage in an amount greater than \$3,000,000.
- c) Coverage in excess of the above minimum requirements is optional at the discretion of the board of directors of the savings bank.
- d) The bond shall not provide for more than one deductible from all losses caused by the same person or caused by the same persons acting in collusion or combination in cases in which ~~thesuch~~ losses result from dishonesty. A deductible shall not exceed an amount determined in accordance with the following schedule:

<u>Total Capital</u>	<u>Permissible Deductible</u>
Less than 4% percent of total assets	10% percent of total capital.
Greater than 4% percent but less than 6% percent of total assets	15% percent of total capital.
Greater than 6% percent of total assets	20% percent of total capital.

- e) The bond shall be in the form known as Standard Form No. 22, Standard Form No. 24 or an equivalent as determined by the ~~Director~~ Commissioner.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.465 Indemnification of Officers, Organization Directors, Employees and

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Agents

- a) No officer, organization director, employee, or agent of a savings bank may be indemnified by a savings bank against any expense incurred, if the officer, organization director, employee or agent:
- 1) is subject to an Order of Removal, Suspension or Industrywide Prohibition under the Act or this Part~~these rules~~; or
 - 2) is subject to a final order assessing civil money penalties or requiring affirmative action by an individual or individuals in the form of payments to the savings bank.
- b) In accordance with supervisory responsibilities, the Director~~Commissioner~~ may, in his or her discretion, review the threat to bank safety and soundness posed by any indemnification or proposed indemnification of officers, organization directors, employees, or agents by a savings bank or for the consistency of any such indemnification with the standards adopted by that savings bank in its articles. Based upon this review, the Director~~Commissioner~~ may direct a modification of a specific indemnification by a savings bank through administrative action.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.470 Deceptively Similar Names

- a) No savings bank may adopt or use any name deceptively similar to that of another current existing savings bank or financial institution that is located within the area as defined as follows:
- 1) within the counties of Cook, Lake, DuPage, McHenry, Kane and Will, a radius of one mile of the main office of another savings bank or other financial institution; and
 - 2) within all other counties of the State, excluding those specifically identified in subsection (a) ~~above~~, a radius of 50 miles of a savings bank or other financial institution.
- b) For purposes of Subpart D of this Part, the determination of the deceptive similarity of a name shall be made by the Director~~Commissioner~~ or ~~such~~ other

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person or persons as are authorized to act on the Director's Commissioner's behalf.

- c) A savings bank chartered under the Act must use the words "Savings Bank" or the initials "SB" in its name.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.490 Procedures for Exercise of Dissenters Rights

Pursuant to Section 4012(c) of ~~the~~The Act, the procedures to be used by savings banks and dissenters in arriving at a value and price for dissenters' shares, as well as how distribution shall be made shall be as follows.

- a) Within ~~ten (10)~~ days after the date on which the action giving rise to the right to dissent is effective or ~~thirty (30)~~ days after the shareholder delivers to the savings bank the written demand for payment, whichever is later, the savings bank shall send each shareholder who has delivered a written demand for payment a statement setting forth the opinion of the savings bank as to the estimated value of the shares, the savings bank's latest balance sheet as of the end of a fiscal year ending not earlier than ~~sixteen (16)~~ months before the delivery of the statement, together with the statement of income for that year and the latest available interim financial statements, and either a commitment to pay for the shares of the dissenting shareholder at the estimated value thereof upon transmittal to the savings bank of the certificate or certificates, or other evidence of ownership, with respect to such shares, or instructions to the dissenting shareholder to sell his or her shares within ~~ten (10)~~ days after delivery of the savings bank's statement to the shareholder. The savings bank may instruct the shareholder to sell only if there is a public market for the shares at which the shares may be readily sold. If the shareholder does not sell within ~~the such ten (10)~~ day period after being so instructed by the savings bank, for purposes of this Section, the shareholder shall be deemed to have sold his or her shares at the average closing price of such shares, if listed on a national exchange, or the average of the bid and asked price with respect to such shares quoted by a principal market maker, if not listed on a national exchange, during ~~the 10such ten~~ day period.
- b) If the shareholder does not agree with the opinion of the savings bank as to the estimated value of the shares, the shareholder, within ~~thirty (30)~~ days from the delivery of the savings bank's statement of value, shall notify the savings bank in writing of the shareholder's estimate of value and demand payment for the

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difference between the shareholder's estimate of value and the amount of the payment by the savings bank or the proceeds of sale by the shareholder, whichever applies because of the procedure for which the savings bank opted pursuant to subsection (a)-~~above~~.

- c) If, within ~~sixty (60)~~ days from delivery to the savings bank of the shareholder notification of estimate of value of the shares, the savings bank and the dissenting shareholder have not agreed in writing upon the value of the shares, the savings bank shall either pay the difference in value demanded by the shareholder or file a petition in the circuit court of the county in which either the registered office or the principal office of the savings bank is located, requesting the court to determine the fair value of the shares. The savings bank shall make all dissenters, whether ~~or not~~ residents of this State, whose demands remain unsettled parties to the proceeding as an action against their shares and all parties should be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law. Failure of the savings bank to commence an action pursuant to this Section shall not limit or affect the right of the dissenting shareholders to otherwise commence an action as permitted by law.
- d) The jurisdiction of the court in which the proceeding is commenced under subsection (c) ~~above~~ by a savings bank is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the power described in the order appointing them, or in any amendment to it.
- e) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds that the fair value of his or her share exceeds the amount paid by the savings bank or the proceeds of sale by the shareholder, whichever amount applies. The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all the circumstances, from the date on which the corporate action giving rise to the right to dissent is approved to the date of payment.
- f) The court, in an appraisal proceeding commenced under subsection (c)-~~above~~, shall determine all costs of the proceeding, including the reasonable compensation and expenses of the appraisers, if any, and experts employed by any party, but shall exclude the fees and expenses of counsel for any party. If the fair value of the shares as determined by the court materially exceeds the amount ~~which~~ the savings bank offered to pay for those shares, or if no offer was made, then all or any part of ~~thesuch~~ expenses may be assessed against the savings bank. Except as

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otherwise provided in this Section, the practice, procedure, judgment and costs shall be governed by the Code of Civil Procedure [\[735 ILCS 5\]](#) (~~Ill. Rev. Stat. 1989, ch. 110, par 1-101 et seq.~~).

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART E: INVESTMENTS

Section 1075.510 Discrimination and Redlining

- a) It shall be considered discriminatory to refuse to grant loans or to vary the terms of loans or the application procedures for loans because of:
 - 1) the proposed borrower's race, color, religion, national origin, age, sex, physical disability or marital status; or
 - 2) the geographic location of the proposed mortgage loan security.
- b) A presumption of discrimination shall be attached to any inquiry regarding a loan authorized by the savings bank's board of directors when:
 - 1) a savings bank refused to accept a written application; or
 - 2) a loan application is rejected and not supported by adequate documentation which includes information sufficient to permit an informed non-interested party to reach the same conclusion as the lender concerning the disposition of the application.
- c) In cases of a savings bank's non-compliance with ~~Subpart E of this Subpart Part~~, the ~~Director~~Commissioner, by written notice, shall require that all inquiries for loans received from proposed borrowers be accepted in writing on application forms that provide information sufficient to make an informed decision concerning the final disposition of the respective loan application. Thereafter, the savings bank shall submit a copy of each rejected application to the Director ~~Commissioner~~ with a written statement setting forth the reason for rejecting the application, and a copy of each document supporting the decision.
- d) A savings bank shall be required to comply with the Director's ~~Commissioner's~~ directive issued pursuant to subsection (c) ~~above~~ for a minimum of ~~six (6)~~ months. Should a presumption of discrimination exist at the close of

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the six-month period, the respective savings bank shall be required to continue ~~such~~ reporting until ~~such later date when the~~ Director~~Commissioner~~, by examination, determines that discriminatory practices have ceased and the savings bank is so notified.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.515 Loans Secured by Real Estate

- a) A savings bank may originate, invest in, sell, purchase, service, participate, or otherwise deal in (including brokerage or warehousing) real estate loans or interest in ~~thosesuch~~ loans.
- b) In determining compliance with the maximum loan-to-value limitations specified in ~~Subpart E of this~~ Subpart~~Part~~, a savings bank shall add to the loan amount the total of all other existing liens or other encumbrances on the security property having priority over the savings bank lien (including the lien to be established by the savings bank but excluding liens that will be released as the result of payments made from the proceeds of the new loan).
- c) At the time of origination, a real estate secured loan granted under the provisions shall not exceed the maximum loan-to-value ratio as follows.
 - 1) With respect to home loans originated or refinanced in excess of 90%~~percent~~ of the appraised value of the security property, that part of the unpaid balance that exceeds 80%~~percent~~ of the property's value shall be insured or guaranteed by mortgage insurance.
 - 2) With respect to all other loans on the security of real estate originated in excess of 90%~~percent~~ of the appraised value of the security property, a savings bank's board of directors, or loan committee, shall approve each ~~such~~ loan before its origination and such approval, or ratification of the loan committee approval, shall be recorded in the minutes of its meeting.
 - 3) In determining compliance with the maximum loan-to-value ratio limitations for real estate loans, at the time of making a loan a savings bank shall add together the unpaid amount, or in the case of a line-of-credit loan the approved credit limit, of all recorded loans secured by prior mortgages, liens or other encumbrances on the security property that would have priority over the savings bank's lien, and shall not make such a

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loan unless the total amount of ~~thesueh~~ loans (including the one to be made but excluding loans that will be paid off out of the proceeds of the new loan) does not exceed the applicable maximum loan-to-value ratio limitations prescribed in subsection (c) ~~above~~. In valuing the real estate security, a savings bank may use the current appraised value of the security property, which may include any expected value of improvements to be financed. "Value" for a real estate loan means the market value of the real estate. For loans granted pursuant to Section 6002(3) of the Act, alternative methods of valuation or other procedures that result in an estimate of value may be used.

- d) The loan-to-value limitations specified in subsection (c) ~~above~~ shall not apply to the following.
- 1) To loans guaranteed or insured wholly or in part by the United States or any of its instrumentalities.
 - 2) To loans or contracts made to finance the purchase of real estate owned ~~thatwhich~~ has been acquired by the savings bank through default on a prior investment provided that the minutes of organization directors' meetings substantiate that ~~thesueh~~ sale is made in compliance with the following:
 - A) the board of directors approved the specific terms of the loan or contract before the savings bank's issuance of a letter of commitment. If no letter of commitment is to be issued, such approval shall be before the execution of a note, mortgage, or contract for deed between the purchaser and the savings bank;
 - B) the board of directors' resolution of approval of the respective sale specifically indicates why the sale is in the best interest of the savings bank and that ~~said~~ approval is given after duly considering the provisions of ~~Subpart E of this~~ SubpartPart;
 - C) the resolution identifies the specific documentation they have utilized in determining that the sale was in the best interest of the savings bank; and
 - D) all documentation used in evidencing compliance with ~~Subpart E of this~~ SubpartPart is retained as a part of the records of the

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savings bank for so long as the savings bank has a direct or indirect interest in the respective real estate.

- 3) Loans or contracts having additional eligible collateral pledged in an amount equal to that part of the loan or contract ~~that~~which is in excess of the lending limitations specified in subsection (c)~~-above~~. Eligible collateral means:
- A) any investment permissible for savings banks under the Act;
 - B) any savings or time deposit in a commercial bank ~~that~~which ~~deposit~~is insured by the Federal Deposit Insurance Corporation and not under control of any supervisory authority; or
 - C) the cash surrender value of a life insurance policy validly assigned to the savings bank.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.565 Financial Futures

- a) Definitions as used in this Section apply unless the context otherwise requires.

"Financial Futures Transaction" means the purchase or sale of a financial futures contract.

"Forward Commitment" means a written commitment to make, purchase or issue mortgage loans or mortgage-related securities at a price and on or before a date specified in the commitment.

"Long Position" means the purchase of a financial futures contract to take delivery of a financial instrument.

"Mortgage-Related Securities" means securities based on and backed by mortgages, including mortgage-backed securities guaranteed by the Government National Mortgage Association ("GNMA's"), Mortgage Participation Certificates of the Federal Home Loan Mortgage Corporation, and similar obligations issued by a private issuer or in which the savings bank shall invest.

"Offset" means to cancel an obligation to make or take delivery of securities

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under a financial instrument under a financial futures contract. A futures contract to purchase a financial instrument is offset by a futures contract to sell a financial instrument of the same type for the same delivery month. A futures contract to sell a financial instrument is offset by a futures contract to purchase a financial instrument of the same type for the same delivery month.

"Short Position" means the holding of a financial futures contract to make delivery of a financial instrument.

- b) Permitted Transactions – to the extent that it has legal power to do so, a savings bank may engage in interest rate futures transactions to reduce its net interest rate risk exposure as provided in this subsection. For purposes of this Section, net interest rate risk exposure is the volatility in a savings bank's earnings that can arise from the mismatching of the maturities of assets and liabilities. A savings bank may enter into short positions that are appropriate for reducing its net interest-risk exposure. A savings bank may enter into long positions, other than those that offset short positions, only under the following conditions.
- 1) The futures position must be matched against a firm forward commitment to sell mortgages not yet originated or to issue mortgage-related securities to be based on mortgages not yet originated. For purposes of subsection (b), a firm forward commitment is a written commitment obligating the seller to make delivery, and the buyer to take delivery of mortgage loans not yet originated or mortgage-related securities to be based on mortgages not yet originated, at a price and on or before a date specified in the commitment.
 - 2) The futures position may be entered into and maintained only to the extent that the savings bank's firm forward commitments exceed 10%~~percent~~ of long-term assets with fixed interest rates. For purposes of this Section, long-term assets are those having remaining terms to maturity in excess of 5 ~~five (5)~~ years.
- c) Authorized Contracts – savings banks may engage in interest rate futures transactions using any interest rate futures contracts designated by the Commodity Futures Trading Commission (CFTC) and based upon a financial instrument in which the savings bank has authority to invest ~~in~~ or to issue.
- d) Board of Directors' Authorization – before engaging in interest rate futures transactions, a savings bank's board of directors must authorize such activity. In

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authorizing futures trading, the board of directors shall consider any plan to engage in financial futures transactions, shall endorse specific written policies, and shall require the establishment of internal control procedures. Policy objectives must be specific enough to outline permissible contract strategies, taking into account price and yield correlations between assets or liabilities and the financial futures contracts with which they are matched; the relationship of the strategies to the savings bank's operations; and how such strategies reduce the savings bank's net interest rate risk exposure. Internal control procedures shall include, at a minimum, periodic reports to management, segregation of duties and internal review procedures. In addition, the minutes of the meeting of the board of directors shall set forth limits applicable to futures transactions, identify personnel authorized to engage in futures transactions, and set forth the duties, responsibilities and limits of authority of such personnel. The board of directors shall review the position limit, all outstanding positions, and the unrelated gains or losses on those positions at each regular meeting of the board.

- e) Notification – a savings bank engaging in financial futures transactions shall notify the ~~Director Commissioner~~ that it is engaging in ~~thosesueh~~ transactions. The savings bank shall report its gross outstanding long and short financial futures positions on its monthly report.
- f) Record Keeping Requirements – a savings bank engaging in financial futures transactions shall maintain records of ~~thosesueh~~ transactions sufficient to document how the transactions reduce the net interest rate risk exposure of the savings bank in accordance with the following requirements.
 - 1) Contract Register – the savings bank shall maintain a contract register adequate to identify and control all financial futures contracts and including, at a minimum, the type and amount of each contract, the maturity date of each contract, the cost of each contract, the dollar amount and description of the asset or liability with which the futures contract is matched, and the date and manner in which a contract is closed out. ~~TheSueh~~ register shall be prepared in a manner sufficient to indicate at any time the savings bank's total outstanding long and short financial futures positions.
 - 2) Other Documentation – the savings bank shall maintain, as part of the documentation of its financial futures strategy, a schedule of the assets and the liabilities for which net interest rate risk exposure is being reduced and the purpose of each contract entered ~~into~~.

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- 3) Maintenance of Records – the records designated in [this](#) subsection (f) ~~above~~ shall be maintained for all futures transactions closed-out during the preceding ~~two (2)~~ years.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.570 Financial Options

- a) Definitions as used in this Section apply unless the context otherwise requires.
 - 1) "Call" means an option which gives the holder the right to purchase a financial instrument at a price and on or before the expiration date specified in the option contract.
 - 2) "Deliverable Instrument" means a financial instrument whose terms satisfy the requirements for fulfilling delivery obligations of an option.
 - 3) "Effective Exercise Price" means the yield equivalent price of an instrument whose coupon rate differs from the standard instrument specified in the option,
 - 4) "Financial Options Contract" means an agreement (other than an optional delivery forward commitment contract to purchase and sell mortgages or mortgage-backed securities when used as part of the mortgage loan origination process) to make or take delivery of a financial instrument upon demand by the holder of the contract at any time before the expiration date specified in the agreement, under terms established either by:
 - A) a board of trade designated as a contract market for the trading of option contracts by the CFTC or a national securities exchange registered with the Securities Exchange Commission (SEC); or
 - B) the savings bank and a "permissible counterparty," as defined in subsection (a)(10), that are counterparties in an over-the-counter option transaction (other than an over-the-counter commodity optional transaction subject to the jurisdiction of the CFTC that is not otherwise authorized under the Commodity Exchange Act (7 [USCU.S.C.](#) 1) and the regulations [under that Act](#)~~thereunder~~).

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- 5) "Financial Options Transaction" means the purchase or sale of a financial options contract.
- 6) "Immediate Exercise Value" means the market value gained by exercising an option with the lowest cost deliverable instrument at its effective exercise price compared to purchasing (or selling) an identical instrument with the same coupon rate in the cash market.
- 7) "Long Position" means the holding of a financial options contract with the option to make or take delivery of a financial instrument.
- 8) "Option Commitment Fee" means the option premium minus the immediate exercise value of the option.
- 9) "Option Premium" means the price paid or received for establishing an option position.
- 10) "Permissible Counterparty" means any entity that is:
 - A) a primary dealer as defined in subsection (a)(11) of this Section;
 - B) a bank subject to the regulation and supervision of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System and that is in compliance with applicable regulatory capital requirements;
 - C) a savings bank that is subject to the regulation and supervision of the ~~Division Office of Banks and Real Estate~~ and is in compliance with applicable regulatory capital requirements or subject to the regulation and supervision of the ~~Division Office of Banks and Real Estate~~;
 - D) a broker or dealer registered with the Securities and Exchange Commission ("~~SEC~~") and subject to regulation and supervision by a Registered Securities Association (registered pursuant to ~~section~~Section 15A of the Securities and Exchange Act of 1934 (15 ~~USC U.S.C.~~ 78(o)) ("~~Exchange Act~~") or a National Securities Exchange (registered pursuant to ~~sections~~Sections 6 and 19(a) of the Exchange Act) and that is in compliance with applicable capital

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requirements;

- E) a government securities broker or dealer registered with the SEC that is subject to examination and supervision by a Registered Securities Association (registered pursuant to ~~section~~Section 15A of the Exchange Act) or National Securities Exchange (registered pursuant to ~~sections~~Sections 6 and 19(a) of the Exchange Act) and that is in compliance with applicable capital requirements;
 - F) a futures commission merchant registered with the CFTC and that is in compliance with applicable capital requirements;
 - G) the Federal Home Loan Banks;
 - H) the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association; or ~~the~~ Government National Mortgage Association; or
 - I) any other entity that the ~~Director~~Commissioner, upon application, determines to be adequately regulated, capitalized, and audited or examined such that acting as a counterparty in an over-the-counter options transaction with a savings bank would not entail substantial credit risks for the savings bank. ~~The Office of Banks and Real Estate delegates the authority to consider and approve such applications to the director of supervision, with the concurrence of the general counsel, or their respective designees.~~
- 11) "Primary Dealer in Government Securities" means any member of the Association of Primary Dealers in United States Government Securities and any parent, subsidiary, or affiliated entity of such primary dealer: provided, that the member guarantees (to the satisfaction of the ~~Division~~Office of Banks and Real Estate) the over-the-counter financial options transactions between its parent, subsidiary, or affiliated entity with a savings bank, and provided further, that the parent, subsidiary, or affiliated entity is substantially engaged in similar activities.
- 12) "Put" means an option ~~that~~which gives the holder the right to sell a financial instrument at a price on or before the expiration date specified in the financial options contract.

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- 13) "Short Position" means a commitment through a financial options contract to stand ready during the term of the contract to make or take delivery of a financial instrument.
- b) Permitted Transactions – to the extent that it has legal power to do so, a savings bank may engage in financial options transactions as follows:
- 1) Long Positions – a savings bank may enter into long positions without numerical limit.
 - 2) Short Positions – a savings bank may enter into short call positions without numerical limit. If a savings bank meets its capital requirement, it may enter into short put options to the extent that the aggregate amount of its short put options and forward commitments to purchase securities does not exceed 15%~~percent~~ of total assets. If capital requirements are not met, the savings bank may enter into short put options only with prior written approval from the ~~Director~~Commissioner. Permission shall be granted if the ~~Director~~ Commissioner finds ~~thesueh~~ investment is not for speculative purposes and that ~~thesueh~~ investment is made in accordance with a well-defined hedging program adopted by the savings bank board of directors.
- c) Authorized Contracts – a savings bank may engage in financial options transactions using any financial options contracts either:
- 1) designated by the CFTC or approved by the SEC; or
 - 2) entered into with a "permissible counter-party", as defined in subsection (a)(10)~~above~~, and based upon a financial instrument that the savings bank has authority to invest in or to issue.
- d) Board of Directors' Authorization – before engaging in financial options transactions, a savings bank's board of directors must authorize such activity. In authorizing options, the board of directors shall consider any plan to engage in writing or purchasing financial options contracts, shall endorse specific written policies, and shall require the establishment of internal control procedures. For options positions that will be matched with cash or forward market positions, policy objectives must be specific enough to outline permissible options contract strategies, taking into account price and yield correlations between assets or liabilities and the financial options contracts; the relationship of the strategies to

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the savings bank's operations; the rationale for the ratio of the value of options positions to the value of the matched cash market positions; and how the options strategy reduces the savings bank's interest rate risk exposure. For unmatched option positions, policy objectives must specify the relationship of the strategy to the savings bank's operations. Prudent business judgment shall be exercised by participating savings banks engaging in financial options transactions to maintain a safe and sound financial position. Internal control procedures shall include, at a minimum, periodic reports to management, segregation of duties and internal review procedures. In addition, the minutes of the meeting of the board of directors shall set forth limits applicable to financial options transactions, identify personnel authorized to engage in financial options transactions, and set forth the duties, responsibilities and limits of authority of such personnel. The board of directors shall review the position limit, all outstanding options contract positions, and the unrealized gains or losses on those positions at each regular meeting of the board.

e) Notification, Reporting, and Approval

- 1) A savings bank shall notify the ~~Director~~ Commissioner immediately following authorization of its board of directors to engage in financial options transactions. The savings bank shall report its outstanding positions, together with the total unrealized gain or loss from ~~thosesueh~~ positions to the ~~Director~~ Commissioner monthly.
- 2) A savings bank shall not engage in over-the-counter financial option transactions with any permissible counterparty unless ~~thesueh~~ counterparty agrees to notify the ~~Director~~ Commissioner. A savings bank shall not continue to engage in over-the-counter financial option transactions with any permissible counterparty that has failed to so notify the ~~Director~~ Commissioner with respect to previous over-the-counter financial option transactions with that savings bank. Notwithstanding the foregoing, no savings bank shall engage in a long over-the-counter financial option transaction with a specific permissible counterparty, without obtaining the prior approval of the ~~Director~~ Commissioner, whenever the aggregate exercise value of all long over-the-counter financial option positions with the counterparty exceeds the limitations contained in Section 6013 of the Act. The ~~Director~~ Commissioner may approve any financial option transaction whenever it determines that such transaction does not subject the savings bank to undue risk. In making such determinations, the ~~Director~~ Commissioner shall consider:

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- A) the credit worthiness of the specific counterparty;
 - B) the savings bank's experience with ~~thesueh~~ counterparty and with transacting in financial option and futures contracts generally;
 - C) the nature of the subject contracts (e.g., matched or unmatched); and
 - D) any other circumstances considered relevant by the ~~Director~~Commissioner. An application to enter into a financial option transaction under this Section shall be considered approved if the ~~Director~~Commissioner does not deny ~~thesueh~~ application within ~~ten~~(10) calendar days from the date the application was filed.
- f) Record Keeping Requirements – a savings bank engaging in financial options transactions shall maintain records of ~~thosesueh~~ transactions in accordance with the following requirements.
- 1) Contract Register – the savings bank shall maintain a contract register adequate to identify and control all financial options contracts and sufficient to indicate at any time the amounts of financial options contracts required to be reported on its monthly report. At a minimum, the register shall list the type, amount, expiration date and the cost of income from each contract.
 - 2) Other Documentation – the savings bank shall maintain as part of the documentation of its financial options strategy a schedule of any cash market or forward commitment position with which the option is matched and the purpose of each contract.
 - 3) Maintenance of Records – the records designated in this Section shall be maintained for all financial options closed out during the preceding ~~two~~ 2 years.
- g) Accounting
- 1) Purchase or Sale – upon initial purchase or sale of a financial options contract, a memorandum entry of the information specified in this Section

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shall be made and appropriate margin accounts shall be established.

- 2) Option Commitment Fee
 - A) The option commitment fee paid for a long position or received from the sale of a short put option shall be amortized to income or expense over the term of the option, except as provided in this Section.
 - B) The option commitment fee received from the sale of a matched short call option shall be deferred until the option position is terminated. The option commitment fee received from the sale of an unmatched short call option shall be amortized to income over the term of the option.
- 3) Options Contracts
 - A) Gains or losses on options contracts that are matched with assets or liabilities carried at the lower of cost or market value, or carried at market value shall be considered in determining the market value of the asset or liability.
 - B) Options positions that are matched with assets or liabilities carried at cost or to be carried at cost shall be accounted for as follows.
 - i) If a commitment fee will be or has been received with respect to the matched asset, the option commitment fee shall be treated as an adjustment of such fee. The adjusted commitment fee shall then be treated as a fee paid or received in connection with the matched asset.
 - ii) If a commitment fee has not been received with respect to a matched asset, the option commitment fee (except if received for the sale of a short call option) shall be amortized to income or expense over the commitment period by the straight line method.
 - iii) Any resulting gain or loss from an option position (except from a short call option) shall be treated as a discount or premium on the matched asset or liability.

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- iv) Any resulting gain or loss from a short call option position shall be recognized as income or expense upon termination of the option position.
 - v) If an option position is not matched with a cash-market or forward-commitment position or the cash-market or forward-commitment position with which an option is matched is sold or will not occur, the option shall be marked to market.
- C) The immediate exercise value of short puts and other unmatched option positions shall be carried at their current market value.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.585 Asset Reserves

- a) **Scope**
The classification system described in this Section applies to all assets or portions of assets thereof held by a savings bank.
- b) **Classifications**
 - 1) **Substandard** – assets classified substandard are inadequately protected by the current paying capacity of the obligor or of the collateral pledged, if any. Assets so classified must have a well-defined weakness or weaknesses. They are characterized by the distinct possibility that the savings bank will sustain some loss if the deficiencies are not corrected.
 - 2) **Doubtful** – assets classified doubtful have all the weaknesses inherent in those classified Substandard with the added characteristic that collection of the asset in full, on the basis of currently existing facts, conditions, and values, is highly questionable and improbable.
 - 3) **Loss** – assets classified loss are considered uncollectible and of such little value that their continuance as assets without establishment of a reserve is not warranted. This classification does not mean that an asset has absolutely no recovery or salvage value, but, rather, that it is not practical or desirable to defer writing off a basically worthless asset even though

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partial recovery may be effected in the future.

c) Implementation of Classification System

- 1) In connection with examinations of a savings bank or its affiliates, the examiner shall have authority to identify problem assets and, if appropriate, classify them.
- 2) Each savings bank shall classify its own assets on a regular basis. In addition to any other remedies available to the ~~Division Office of Banks and Real Estate~~ under applicable statutes and regulations, a savings bank's failure to set aside prudent valuation allowances, or to monitor portfolio risk with an effective self-classification procedure, will be considered by the examiner in determining the amount of valuation allowances to be established by ~~thesueh~~ savings bank.
- 3) In its reports to the ~~Division Office of Banks and Real Estate~~, each savings bank shall include aggregate totals of assets that the savings bank has classified in each of the ~~3~~ asset classification categories, and the aggregate general and specific valuation allowances established. To the extent a savings bank's specific valuation allowances have decreased from the previous reporting period, ~~thesueh~~ savings bank shall identify the amount of the decrease attributable to a savings bank's between examination upgrading of classifications.

d) Effect of Classification

- 1) When, pursuant to this Section, a savings bank has classified one or more assets, or portions ~~of assetsthereof~~, substandard or doubtful, the savings bank shall establish prudent general allowances for loan losses. When, pursuant to this Section, an examiner has classified one or more assets or portions ~~of assetsthereof~~ substandard or doubtful and has determined that the existing valuation allowances are inadequate, the savings bank shall establish general allowances for loan losses in an appropriate amount as determined by the examiner, subject to approval of the ~~Director~~ ~~Commissioner~~.
- 2) When, pursuant to this Section, either a savings bank or an examiner has classified one or more assets or portions ~~of assetsthereof~~ loss, the savings bank shall either establish allowances for losses in the amount of 100%

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~~percent~~ of the portion of the ~~assets~~~~asset(s)~~ classified loss, or charge off ~~thatsueh~~ amount against current income.

- 3) Adequate valuation allowances consistent with generally accepted accounting principles shall be established for classified assets. Asset evaluations (and the corresponding allowances) that are consistent with the practice of the federal banking agencies may be used for supervisory purposes.
- e) Assets Deserving "Special Mention"
Assets that do not currently expose a savings bank to a sufficient degree of risk to warrant classification under this Section but do have credit deficiencies or potential weaknesses deserving management's close attention shall be designated "special mention" by either the savings bank or the examiner. Special mention assets have a potential weakness or pose an unwarranted financial risk that, if not corrected, could weaken the asset and increase risk in the future.
- f) Delegations and Interpretations
 - 1) The ~~Director~~~~Commissioner~~ or designee may approve, disapprove, or modify any classifications of assets made pursuant to this Section and any amounts of allowances for loan losses established by a savings bank or required by examiners pursuant to this Section.
 - 2) When an appraisal is required or made in connection with any reevaluation of assets, the ~~Director~~~~Commissioner~~ may approve or reject the appraisal and any valuation related to it.
 - 3) The ~~Division Office of Banks and Real Estate~~ shall, from time to time, issue supervisory interpretations and other informational material regarding classification of assets.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART F: SERVICE CORPORATION AND OPERATING SUBSIDIARIES

Section 1075.600 Requirements

- a) No savings bank shall invest in or lend to a service corporation, as defined in Section 1007.105 of the Act, unless the service corporation has been approved by

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the ~~Director~~Commissioner.

- b) Subpart F of this Part shall not apply to investments in single purpose corporations authorized under Sections 1008(9) and 6009 of the Act.
- c) Savings banks may designate a service corporation or other subsidiary as an operating subsidiary as follows:
 - 1) Upon approval of the ~~Director~~Commissioner, a subsidiary of a savings bank that is majority owned and controlled by the savings bank may be designated as an operating subsidiary provided that the subsidiary engages solely in activities that are permitted for a depository institution or an operating subsidiary of a depository association.
 - 2) An operating subsidiary shall be subject to the provisions of this Subpart except that a savings bank's total investment, including equity and debt securities and loans, in its first-tier operating subsidiary is not limited by this Subpart. Loans made by the savings bank to its operating subsidiary shall not be subject to Section 6013 of the Act.
 - 3) Upon approval of the ~~Director~~Commissioner, a subsidiary of a first-tier operating subsidiary may be designated as an operating subsidiary; provided that the lower tier subsidiary is wholly-owned and controlled by the first-tier operating subsidiary and engages solely in activities that are permitted for a depository institution or an operating subsidiary of a depository association. The total investment, including equity and debt securities and loans, by the savings bank or its first-tier operating subsidiary in the wholly-owned and controlled lower-tier operating subsidiary is not limited by this Subpart or Section 6013 of the Act.
 - 4) The total investment, including equity and debt securities and loans, by the savings bank and its first-tier operating subsidiary in a service corporation or an operating subsidiary that is not wholly-owned and controlled by the savings bank's first-tier operating subsidiary is subject to the same limitations under this Subpart that apply to the savings bank's investment in a service corporation that is not an operating subsidiary.
 - 5) As used in this subsection (c):

"Subsidiary" means a corporation, limited liability company,

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partnership, business trust, joint venture, pool, syndicate or other similar business organization.

"Majority-owned" means the savings bank owns more than 50% of the voting interest or equivalent ownership interest of the subsidiary.

"Control" means effective operating control.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.610 Approval by the ~~Director~~ Commissioner

- a) Except as provided in subsection (b) of this Section, an application for approval of a service corporation shall be approved by the ~~Director~~ Commissioner provided that:
 - 1) its purpose or purposes are reasonably incident to the accomplishment of the powers conferred upon savings banks by ~~the~~The Act, or are purposes granted or allowed to service corporations organized or owned by savings and loan associations; or its sole purpose is to operate as a finance subsidiary of a savings bank to the extent authorized for finance subsidiaries of savings and loan associations under the Illinois Savings and Loan Act of 1985 ~~[205 ILCS 105](Ill. Rev. Stat. 1989, ch. 17, par. 3301 et seq.); and~~
 - 2) the application for approval of a service corporation includes: the appropriate fee; a copy of the service corporation's Articles of Incorporation; a list of proposed ~~shareholders~~shareholder(s); the fiscal year-end date; and an undertaking by the service corporation with the continuing conditions specified in subsection (c) of this Section and in a form prescribed by the ~~Director~~ Commissioner.
- b) An application for approval of a service corporation shall be denied by the ~~Director~~ Commissioner in writing if the ~~Director~~ Commissioner finds that any proposed shareholder is conducting business in an unsafe manner.
- c) Continuing Conditions
 - 1) A service corporation shall not amend its Articles of Incorporation nor

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adopt an assumed corporate name without the prior written approval of the ~~Director~~~~Commissioner~~. A proposed amendment to Articles of Incorporation not involving a name change shall be approved unless it is in non-compliance with subsection (a)(1) ~~above~~. A proposed name change shall be approved unless such proposed name is either deceptively similar to that of a savings bank as specified in Section 3005(b)(3) of the Act or of a nature which might imply that the entity is a savings bank.

- 2) Each service corporation shall cause its affairs to be audited by a licensed public accountant at least once each fiscal year, and cause ~~the said~~ accountant to deliver a copy of ~~the said~~ certified statement to the ~~Director~~~~Commissioner~~ simultaneously with the delivery of the statement to the service corporation.
- 3) Each service corporation shall be examined in conjunction with the examination of its parent savings ~~banks~~~~bank(s)~~. The ~~Director~~~~Commissioner~~ shall require additional reports and/or examinations if the ~~Director~~~~Commissioner~~, or his ~~or her~~ staff members engaged in examination of the savings bank's monthly report, determine that more information is needed to determine the viability of the service corporation.
- 4) A service corporation shall not acquire any classified ~~items~~~~item(s)~~ as defined in Section 1075.585(b) from any financial institution, except that a service corporation may acquire real estate owned by any savings bank.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.620 Investment Limitations

- a) A savings bank may make investments in capital stock of service corporations ~~that which~~ are 90% ~~percent~~ or more owned by one or more savings banks in an amount ~~that which~~ shall not exceed 10% ~~percent~~ of the savings bank's total assets. A savings bank that has met and maintained the capital ~~levels~~~~level(s)~~ required for a savings bank, the deposit accounts of which are insured by the Federal Deposit Insurance Corporation, may invest an additional 50% ~~percent~~ of the excess capital provided that in no event shall a savings bank's maximum investment in service corporations exceed 20% ~~percent~~ of its total assets.
- b) A savings bank may make investments in capital stock of service corporations

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~~that~~which are at least 51% ~~percent~~ but less than 90% ~~percent~~ owned by one or more savings banks, in an amount not to exceed 1% ~~percent~~ of the savings bank's total assets.

- c) All loans to service corporations shall be subject to all lending limitations contained in the Act and this Part, except that:
- 1) a savings bank may make loans to a wholly owned service corporation in an amount equal to the savings bank's total capital or in an amount that exceeds the savings bank's total capital if ~~thesuch~~ excess amount is fully secured by collateral, of a type upon which the savings bank itself could lend, of a value determined in accordance with the Act and with rules promulgated by the ~~Director~~Commissioner; and
 - 2) loans shall not be subject to the percentage of asset limitations of Section 6002(8) of the Act.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.630 Investments by Service Corporations

- a) A service corporation may invest its assets in any manner not expressly prohibited by law, provided ~~thesuch~~ investments are made in the exercise of reasonable judgment and care under the circumstances then prevailing ~~that~~which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.
- b) If a service corporation has not been approved, or if approval is withdrawn, all loans to or investments in the service corporation shall constitute an unauthorized investment. However, the savings bank shall be granted a reasonable time within which to dispose of ~~thesaid~~ loans or investments.
- c) A basis for withdrawal of approval of a service corporation exists if:
- 1) the service corporation is subject to involuntary dissolution for failure to file annual reports or pay fees pursuant to the Business Corporation Act [805 ILCS 5](Ill. Rev. Stat. 1989, ch. 32, par. 1.01 et seq.); or

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- 2) the service corporation fails to pay, within ~~sixty (60)~~ days ~~after~~ of the billing date, supervisory fees or examination fees due the ~~Director~~Commissioner;
- 3) the service corporation fails to file, when due, those reports required by Sections 1075.670 and 1075.680 of this Part;
- 4) the ~~Director~~Commissioner determines that the service corporation is engaged in activities that are not reasonably incidental to the accomplishment of the powers conferred upon savings banks by the Act;
- 5) the investment of any parent savings bank in the respective service ~~corporation~~corporation(s) is in excess of the investment limitations set forth at Section 1075.620 of this Part; or
- 6) the ~~Director~~Commissioner determines that the service corporation is conducting business in a fraudulent, illegal, or unsafe manner.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.640 Ownership of Capital Stock of Service Corporation

- a) A minimum of 51% ~~percent~~ of all classes of capital stock of a first-tier service corporation shall be owned by one or more savings banks, bank, or savings and loan associations. First-tier service corporation means any corporation which is 51% ~~percent~~ or more owned by one or more savings banks, bank, or savings and loan associations whose purpose or purposes are reasonably incidental to the accomplishment of the powers conferred upon savings banks by ~~the~~The Act.
- b) Subject to approval by the ~~Director~~Commissioner, an amount not to exceed 49% ~~percent~~ of all classes of capital stock of a service corporation may be owned by a person or persons other than a savings bank. The ownership ~~by such person or persons~~ shall be approved if the ~~Director~~Commissioner finds:
 - 1) the sale or issuance of stock is at no less than the book value of the stock;
 - 2) if no sale is involved, that the stock issuance to employees or officers is part of the compensation program documented by a written employment contract; and

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- 3) the ownership of ~~thesueh~~ stock is subject to a repurchase agreement ~~that~~~~which~~ provides that the service corporation has the right of first refusal to reacquire the stock from the person or persons or the estate of ~~thesueh~~ person or persons at book value at the time of death or termination of employment.
- c) The book value of the stock shall be determined in accordance with generally accepted accounting principles by the independent auditor of the service corporation.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.650 Prohibited Transactions

- a) Without prior approval of the ~~Director~~~~Commissioner~~, no service corporation shall enter into any contract (except an employment contract), grant any loan, directly or indirectly, to any officer, ~~organization~~ director, individual stockholder or employee of the service corporation or of its parent savings ~~banks~~~~bank(s)~~ except upon real estate occupied as a homestead or on the security of a personal automobile. A service corporation may, without prior approval, enter into a contract for the sale of real estate to be occupied by any of the foregoing persons as their bona fide homestead.
- b) A service corporation may enter into a contract to purchase an insurance agency or brokerage in which any of the foregoing persons have an interest.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.670 Reporting Requirements

- a) Within ~~forty five (45)~~ days ~~after~~~~of~~ the close of each calendar year, each service corporation shall submit to the ~~Director~~~~Commissioner~~ a report, in such form as the ~~Director~~~~Commissioner~~ shall prescribe, setting forth complete and true statements of condition and operations of the service corporation and of every partnership, joint venture or corporation in which the service corporation has a cash and/or equity interest of 50% ~~percent~~ or more.
- b) All corporate subsidiaries, partnerships and joint ventures in which the service corporation has a cash and/or equity interest of 50% ~~percent~~ or more shall, within ~~fifteen (15)~~ days ~~after~~~~a~~~~of~~ request ~~for same~~ by the ~~Director~~~~Commissioner~~, submit

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true and correct copies of all contracts, mortgages, partnership agreements, joint ventures and loan commitments.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.680 Audit Requirements

- a) Each service corporation shall cause its books and records to be audited at least once annually by an independent licensed public accountant. Except as provided after this, the report of audit shall be separate from the report of audit of any parent savings bank.
- b) The report of audit of a wholly-owned service corporation may be consolidated with the report of audit of the parent savings bank provided that thesueh report sets forth:
 - 1) the auditor's opinion that the activity of the service corporation does not materially affect the financial position of the parent savings bank; and
 - 2) all details of consolidation.
- c) The auditor shall test compliance with the Act and this Part and determine the effect that the service corporation has on the financial position of the parent savings banksbank(s).
- d) The auditor shall determine and report any facts relating to any direct or indirect self-dealing by any service corporation officer, organization director, employee or shareholder other than a savings bank. The auditor shall also determine and report any facts relating to any direct or indirect conflict of interest of any officer, organization director, employee or shareholder of a savings bank holding stock in the service corporation.
- e) Any noncompliance with the Act or this Part, self-dealing or conflict of interest which are discovered during the audit shall be set forth in the report of audit delivered to the service corporation's board of directors. The service corporation's board of directors shall promptly report thesueh noncompliance to the DirectorCommissioner and to the board of directors of the parent savings banksbank(s).
- f) A copy of the audit report shall be filed with the DirectorCommissioner within

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~~ninety (90)~~ days ~~after~~ the audit date, except upon receipt of written notice setting forth the reason delivery of the report of audit is delayed by circumstances beyond the control of the service corporation, the ~~Director~~Commissioner may extend the filing date for up to ~~sixty (60)~~ additional days.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART G: RELOCATIONS AND BRANCHING

Section 1075.700 General

- a) A branch office of a savings bank is any office other than its home office, drive-in facility, pedestrian facility, agency office, or a remote service unit.
- b) Any business of a savings bank may be transacted at a branch office. When a branch office provides any product, it must have all the resources necessary to support that product offering at the branch location.
- c) A savings bank shall not establish a branch office nor change the location of its home office unless its respective application has been approved by the ~~Director~~Commissioner. An application shall be approved only if the ~~Director~~Commissioner finds that:
 - 1) the office can be established at the proposed location without undue injury to properly conducted existing savings banks;
 - 2) the policies and financial condition of the applicant are not a basis for supervisory objection; and
 - 3) the proposed office will open within 12 months of approval unless occupancy is delayed by circumstances beyond the control of the applicant and, consequently, additional time is allowed by the ~~Director~~Commissioner.
- d) A savings bank proposing a change of location of its home office or branch office may request a waiver of the otherwise applicable requirements of ~~this~~ Subpart G ~~of this Part~~. The request will be approved only if:
 - 1) the ~~Director~~Commissioner can make the same findings as those required at subsection (c)-~~above~~;

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- 2) the applicant demonstrates that the area to be served from the proposed location is essentially the same as that served from the present location;
 - 3) the applicant gives the ~~reasons~~reason(s) for the change of location; and
 - 4) the applicant submits a request ~~that~~which sets forth information sufficient to allow the making of all determinations required by subsection (d) ~~above~~.
- e) If requested by the applicant, the ~~Director~~Commissioner shall approve a temporary location of a home office or a branch office if the temporary location is:
- 1) in the immediate vicinity of the approved permanent location; and
 - 2) not more competitive to any other properly conducted existing savings bank than the approved permanent location.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.705 Application

- a) A savings bank may apply for a branch office or for a change of location of its home office provided that the applicant obtains the prescribed form of application and form of notice and related instructions from the ~~Director~~Commissioner unless waived pursuant to Section 1075.700(d) of this Part.
- b) An application is considered complete and a priority filing date is established when the ~~Director~~Commissioner determines that all required information has been submitted.
- c) Changes to all but material information of the application may be made up to the time the approval/denial is determined. For purposes of this Section, material information is defined as but is not limited to:
 - 1) savings bank name;
 - 2) savings bank address;

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- 3) nature and purpose of application; and
- 4) any other information which if changed, would likely cause the approval or denial decision to be reversed.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.710 Request for Preliminary Determination

- a) A savings bank ~~that~~~~which~~ intends to file an application for a branch office or for a change of location of its home office may, before the filing of ~~the~~~~sueh~~ application, submit to the ~~Director~~ ~~Commissioner~~ written advice of intent to file ~~the~~~~sueh~~ ~~an~~ application and request a preliminary determination as to whether supervisory objection will be raised on the basis of the applicant's policies and financial condition. Within ~~thirty~~ ~~(30)~~ days following receipt of the advice of intent, the applicant shall be advised of the ~~Director's~~ ~~Commissioner's~~ decision, and if applicable, the reason for supervisory objection.
- b) If at any time subsequent to preliminary determination the ~~Director~~ ~~Commissioner~~ determines that a basis for supervisory objection exists, further processing of the respective application shall be denied.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.715 Public Notice and Inspection

- a) At the time of the filing of the application, the applicant shall publish notice of intent to relocate or establish a branch office. The notice shall be in form and content as prescribed by the ~~Director~~ ~~Commissioner~~. The applicant shall publish notice in a newspaper printed in the English language having a general circulation in the applicant's home office community and in the community to be served from the proposed location.
- b) Within 10 days following the date of publication, the applicant shall furnish the ~~Director~~ ~~Commissioner~~ with one copy each of the required notices and the publisher's affidavits of publication.
- c) Subject to Section 1075.110(d) of this Part, the application shall be available for public inspection at the ~~Division~~ ~~Office of Banks and Real Estate~~, by appointment.

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.720 Protest

Protests, answers to protests and other related communications shall be in writing and submitted only as provided in this Section.

- a) Within 10 calendar days following the date of publication of Notice of Application (or 20 calendar days after the date of publication if extension is requested in writing within ~~the~~ 10 day period) any person may file a communication in favor or protest of the application with the ~~Director~~ Commissioner. Any person filing ~~such~~ a communication shall simultaneously furnish a copy to the applicant.
- b) Within 15 calendar days after receipt of a protest, the objector and the applicant shall be advised in writing whether the ~~Director~~ Commissioner considers the protest to be substantial.
- c) No protest shall be considered "substantial" unless it is in writing, filed on time, and contains at least the following:
 - 1) a summary of the reasons for the protest;
 - 2) the specific matters in the application to which objection is raised and the reasons for each objection;
 - 3) facts supporting the protest, including relevant economic or financial data; and
 - 4) adverse effects on the objector ~~that~~ which may result from approval of the application.
- d) The ~~Director's~~ Commissioner's determination as to whether a protest is "substantial" shall be made on the basis of data showing undue injury to properly conducted existing savings ~~banks~~ bank(s) and/or data disputing the propriety of information set forth in the respective application.
- e) Within 20 calendar days following the date of notice that a protest has been considered substantial, the applicant may file an answer to ~~the~~ such protest with the ~~Director~~ Commissioner.

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.725 Oral Argument

- a) Oral argument on the merits of an application shall be heard if:
- 1) the applicant, or a person who has filed a protest considered to be substantial, so requests and the request is received by the Director ~~Commissioner~~ within ~~ten~~ (10) calendar days after the time for filing answers to all protests has expired; and
 - 2) the Director ~~Commissioner~~, after reviewing the application and other pertinent information, considers oral argument desirable because of protests ~~that~~ ~~which~~ dispute the propriety of information set forth in the application.
- b) Any ~~such~~ hearing of oral argument shall be subject to the appropriate fee and expenses prescribed in Section 1075.100 of this Part. A transcript of any ~~such~~ hearing of oral argument shall be taken and made a part of the record in the matter.
- c) The Director ~~Commissioner~~ shall mail notice of the date (which shall be at least ~~ten~~ (10) calendar days after ~~the~~ ~~such~~ mailing), time and place of oral argument to the applicant and ~~persons~~ ~~person(s)~~ who filed protests or other communications. The Director ~~Commissioner~~ shall ensure that the time and place of any oral argument are reasonably convenient to the applicant and the ~~objectors~~ ~~objector(s)~~.
- d) The Director ~~Commissioner~~ or any person designated by the Director ~~Commissioner~~ shall hear oral argument and determine all matters relating to the conduct ~~of the hearing thereof~~. Arguments shall be made in person or by authorized ~~representatives~~ ~~representative(s)~~. A maximum of one hour of oral argument shall be allowed in favor of and against the application. In hearing oral arguments, the person presiding shall determine the order of presentation. The parties may agree on a division of time; otherwise, the person presiding shall make the determination. Arguments may be consolidated. In the event of multiple substantial protests, the person presiding may permit additional time for argument and rebuttal. Arguments shall be based only on the facts and information on file; however, a party may introduce newly discovered matter by giving a written memorandum of same to the person presiding when the hearing commences.

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~~The Said~~ memorandum shall include an affidavit as to why the matter was not previously known and not previously filed. No party to an oral argument shall be permitted more than one filing of new matter. If the person presiding rules that there is in fact substantive new matter, the party introducing it shall be required to provide copies of the memorandum of ~~thesueh~~ new matter to all parties. If the parties agree to argue on the basis of ~~thesueh~~ new matter, the hearing shall continue.

- e) If any party wishes to file a rebuttal, ~~ten (10)~~ calendar days shall be allowed for the submission of ~~thesueh~~ rebuttal, and the person presiding shall adjourn the hearing and set a date, time and place for it to be reconvened. Rebuttal to new matter shall not be considered a filing of new matter.
- f) If oral argument is heard by a person other than the ~~Director Commissioner~~, that person's findings shall be submitted to the ~~Director Commissioner~~, in writing, within ~~twenty-five (25)~~ calendar days after final adjournment of the hearing. Within ~~ten (10)~~ calendar days following receipt of ~~thesaid~~ findings the parties shall be advised, in writing, of the ~~Director's Commissioner's~~ decision. If the ~~Director Commissioner~~ presides at the hearing, the parties to the hearing shall be advised of the decision within ~~twenty-five (25)~~ calendar days after the final adjournment of the hearing.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.730 Application for the Maintenance of Branch Office after Conversion, Consolidation, Purchase of Assets or Merger

- a) With written approval of the ~~Director Commissioner~~, a savings bank that acquires an office or offices through merger, purchase, purchase of all assets or consolidation shall assume the operation of any acquired offices. An existing depository institution that converts to a savings bank shall maintain all of its offices existing or approved before the conversion.
- b) If the ~~Director Commissioner~~ has approved a Plan of Conversion from a savings bank charter for a savings bank or has evidence of a savings bank's intent to file a Plan of Conversion, he ~~or she~~ shall deny an application for a branch office.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.740 Termination of Operation and/or Closing of a Branch Office

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- a) A savings bank may offer to sell branch offices to another savings bank or other depository institution.
- 1) Before any such sale, a copy of the proposed agreement shall be submitted to the ~~Director~~Commissioner. Within 30 calendar days the ~~Director~~Commissioner shall notify the proposed seller, in writing, as to whether there is supervisory objection to the proposed sale, or the ~~Director~~Commissioner may advise the proposed seller of any additional information or further review considered necessary to make such a determination. The ~~Director~~Commissioner in considering supervisory objection shall review the policies and financial condition of the selling savings bank and the acquiring financial institution.
 - 2) The selling savings bank and, if applicable, the acquiring financial institution shall submit an appropriate bylaw amendment for the ~~Director's~~Commissioner's approval.
- b) A savings bank showing justification for termination of operation and the closing of branch offices may do so with the prior written approval of the ~~Director~~Commissioner. Any request for the closing of any office shall be subject to the publication requirements of Section 1075.715(a) of this Part.
- c) The filing of a request for termination of operation and the closing of branch offices shall constitute authority for the ~~Director~~Commissioner to seek a successor to assume operation of the branch offices.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.750 Remote Drive-In and/or Remote Pedestrian Facilities

- a) A savings bank may, without prior approval of the ~~Director~~Commissioner, establish a remote drive-in and/or remote pedestrian facility in conjunction with each savings bank business office. Each ~~such~~ facility may be designed to simultaneously accommodate more than one customer.
- b) The term "business office" means the business office premises, including non-remote drive-in and/or non-remote pedestrian facilities ~~that~~which are those facilities within the boundaries of real estate on which a home office or any branch office is located and the areas contiguous ~~to the facility, that~~thereto which

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the savings bank has the exclusive right as owner or lessee to use or maintain for ingress or egress or for parking in connection with that business office.

- c) Remote drive-in and remote pedestrian facilities are defined as follows:
- 1) A remote drive-in facility is a facility ~~that~~~~which~~ is not located on the premises of a business office as defined in subsection (b) ~~above~~ and at which the customer transacts business from a vehicle.
 - 2) A remote pedestrian facility is a facility ~~that~~~~which~~ is not located on the premises of a business office as defined in subsection (b) ~~above~~ and at which the customer need not enter an office but may remain outside the structure and transact business with a teller located inside the structure.
- d) Remote drive-in and remote pedestrian facilities may be placed in a store or location of some other business if the savings bank's quarters are used exclusively for the conduct of the savings bank's business. There will be no objection to a remote pedestrian facility ~~that~~~~which~~ faces on an enclosed mall and serves pedestrians who remain in the mall while transacting business with the savings bank.
- e) Functions ~~that~~~~which~~ are routinely performed by the establishing savings bank's tellers at its business ~~offices~~~~office(s)~~ may be performed at a remote drive-in and/or remote pedestrian facility.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART H: CAPITAL NOTES AND DEBENTURES

Section 1075.800 Approval

No savings bank may issue and sell its capital notes or debentures without the prior written approval of the ~~Director, Commissioner and~~ subject to any conditions the ~~Director~~ ~~Commissioner~~ may impose with regard to safety and soundness and maintenance of adequate financial condition, especially in areas of preservation of capital, quality of earnings and adequacy of reserves. A stock savings bank shall also have the prior approval of a majority of the shareholders owning a majority of the issued and outstanding shares of the savings bank to issue convertible capital notes or debentures.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

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Section 1075.810 Conversion to Stock

Capital notes or debentures issued by a stock savings bank may be converted into shares in accordance with provisions approved by the Director Commissioner and contained in the capital notes or debentures. Convertible capital notes or debentures may be issued without preemptive rights to existing shareholders if provided by the Articles of Incorporation of the savings bank and authorized by the Director Commissioner.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART I: ADMINISTRATIVE HEARING PROCEDURES

Section 1075.900 Applicability

This Subpart regulation shall apply to all hearings conducted under the jurisdiction of the Director Commissioner of Banks and Real Estate under the Savings Bank Act.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.905 Definitions

Words or terms that are defined in the Act shall retain the same meaning when used in this Part.

"Act~~ACT~~" – Savings Bank Act [205 ILCS 205].

"AGENCY"~~— Office of Banks and Real Estate.~~

"Applicant~~APPLICANT~~" – Savings bank or holding company or person whose application pending before the Director Commissioner is the subject matter of the hearing.

"Association~~ASSOCIATION~~" – Every savings bank organized under and governed pursuant to the Illinois Savings Bank Act; a State~~state~~ chartered savings bank.

"Department" – The Illinois Department of Financial and Professional Regulation.

"Director~~COMMISSIONER~~" – Director of the Division~~Commissioner of Banks and Real Estate for the State of Illinois.~~

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"Division" – The Department of Financial and Professional Regulation-Division of Banking.

"Hearing Officer~~HEARING OFFICER~~" – The presiding official~~official(s)~~ designated by the Director~~Commissioner~~ to conduct a hearing or anyone designated by the Director~~Commissioner~~ to hear evidence; means any member of the panel the Director~~Commissioner~~ appoints to conduct the hearing.

"Holding Company~~HOLDING COMPANY~~" – Any company as defined in Article 2 of the Act.

"Notice~~NOTICE~~" – Notice prescribed by the Act or this Part, as applicable.

"Objector~~OBJECTOR~~" – Entity or person who is on record as objecting to the application pending before the Director~~that~~Commissioner~~which~~ is the subject matter of the hearing.

"Party~~PARTY~~" – Entity or person named in pleading or affected by judgment.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.910 Early Neutral Evaluation

- a) Upon timely request for a hearing on an Order of the Director~~Commissioner~~, the Director~~Commissioner~~ shall as quickly as feasible designate a hearing examiner.
- b) Twenty ~~(20)~~ days after filing the request for a hearing, the respondent shall file with the hearing officer a position statement and the Director~~Commissioner~~ shall file a copy of his or her Order. The Position Statement shall be a full, complete response to the Order and charges and findings made in the Order~~therein~~, including all relevant facts and copies of any records or documents relevant to the charge, and the Director~~Commissioner~~'s Order shall include a copy of the Order and charges and findings in the Order~~therein~~, including all relevant facts and copies of any records or documents in support of the Order.
- c) Within ~~ten (10)~~ days after~~of~~ receipt of the Position Statement and the Order, the hearing officer upon review of the Position Statement and the Order shall determine whether the matter shall be heard in a conference adjudicative hearing or a formal hearing. Notice of hearing shall be made pursuant to Sections

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1075.940 and 1075.945 of this Part.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.915 Conference Adjudicative Hearing

Applicability – a conference adjudicative hearing may be used if the matter is entirely within one of the following categories:

- a) a matter in which there is no disputed issue of material fact; or
- b) a matter in which there is a disputed issue of material fact, if that matter involves only:
 - 1) a monetary amount of not more than \$25,000;
 - 2) suspension of an organization a director, officer, employee or affiliated person of a savings bank;
 - 3) imposition of a limitation on operations;
 - 4) noncompliance with the examination requirements of the Act and this Part ~~the rules promulgated thereunder~~; and
 - 5) violation of an Order of the Director ~~Commissioner~~ made pursuant to Section 1075.910 of this Part or Section 9009 of the Act.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.920 Filing

Documents and requests permitted or required to be filed with the Division ~~Agency~~ in connection with a hearing shall be addressed to and mailed to or filed with the Division of Banking ~~Office of Banks and Real Estate~~, Department of Financial and Professional Regulation, 500 East Monroe, Suite 900, Springfield, Illinois 62701 or 310 South Michigan Avenue, Suite 2130, Chicago, Illinois 60604, in triplicate. The Division's ~~Agency's~~ Office is open for filing, inspection and copying of public documents from 8:30 a.m. to 5.00 p.m., Monday through Friday, except on national and State ~~state~~ legal holidays.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

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Section 1075.965 Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the ~~Director Commissioner~~ or the hearing officer upon ~~his or her~~~~their~~ own motion or upon motion of a party to the hearing; ~~the~~~~such~~ motion of the party shall set forth facts attesting that the request for continuance is not for purposes of delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.970 Authority of Hearing Officer

The hearing officer has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order and ensure the development of a clear and complete record. The hearing officer shall have all powers necessary to conduct a hearing including the power to:

- a) administer oaths and affirmations;
- b) regulate the course of hearings, set the time and place for continued hearings, fix times for filing of documents and provide for the taking of testimony by deposition;
- c) examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony and set reasonable limits on the amount of time each witness may testify;
- d) rule upon offers of proof and receive relevant evidence;
- e) sign and issue subpoenas that require attendance, giving testimony and the production of books, papers and other documentary evidence;
- f) direct parties to appear and confer for the settlement or simplification of issues, and to otherwise conduct prehearing conferences;
- g) dispose of procedural requests or similar matters;

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- h) render findings of fact, opinions and recommendations for an order of the ~~Director~~ Commissioner;
- i) enter any order that further carries out the purpose of this Subpart I ~~of this Part~~; and
- j) at the hearing officer's discretion, accept probative, relevant evidence from any entity.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.975 Bias or Disqualification of Hearing Officer

- a) Any interested party may file a timely and sufficient affidavit setting forth allegations of personal bias, prejudice or disqualification of a presiding hearing officer. The ~~Director~~ Commissioner shall determine this issue as part of the record of the case. When a hearing officer is disqualified, or it becomes impractical for that hearing officer to continue, another hearing officer may be assigned, unless it is further shown that substantial bias or prejudice will result from that assignment.
- b) The hearing officer may at any time voluntarily disqualify the hearing officer.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.980 Prehearing Conferences

- a) Upon written notice by the hearing officer in any proceeding, or upon written request by any party, the hearing officer may direct parties or their attorneys to appear at a specified time and place for a conference, before or during the hearing, to formulate issues and consider:
 - 1) the simplification of issues;
 - 2) the necessity or desirability of amending the pleadings for clarification, amplification or limitation;
 - 3) the possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record to avoid unnecessary introduction of proof;

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- 4) the limitation of the number of witnesses;
 - 5) the propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and
 - 6) ~~such~~ other matters as may aid in the simplification of the evidence and disposition of the proceeding.
- b) Opportunity shall be afforded all parties to be represented by legal counsel and to dispose of the case by stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order reached before a final determination by the DivisionAgency, shall be submitted in writing to the hearing officer and shall become effective only if approved by the hearing officer and by the DirectorCommissioner.
- c) Only if all parties to a controversy agree, a record of the prehearing conferences shall be kept. It must be certified to by the parties, then filed with the case material in the DivisionAgency files.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.990 Subpoenas

- a) Upon application to the hearing officer by any party, the hearing officer may issue a subpoena for attendance at deposition or hearing, which may include a command to produce books, papers, documents or tangible things designated in those materials therein and reasonably necessary to the resolution of the matter under consideration, subject to the limitations on discovery prescribed by this Subpart I-of this Part.
- b) Every subpoena shall state the title of the action and shall command each person to whom it is directed to attend and give testimony at the time and place therein specified in the subpoena.
- c) The hearing officer or the DirectorCommissioner, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable and oppressive.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

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Section 1075.1025 Briefs

The parties may submit written briefs to the hearing officer within ~~ten (10)~~ days after the close of the hearing, or such other reasonable time as the hearing officer shall determine consistent with the Director's ~~Commissioner's~~ responsibility for expeditious decision.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1030 Hearing Officer's Findings, Opinions and Recommendations

- a) The hearing officer's findings, opinions and recommendations shall be in writing and shall include findings of fact and conclusions of law, or opinions separately stated when possible. Findings of fact shall be based exclusively on the evidence presented at the hearing or known to all parties, including matters officially noticed. Findings of fact, if set forth in statutory language, shall be with a statement of the underlying supporting facts. If a party submits proposed findings of fact ~~that~~~~which~~ may control the decision or order, the decision or order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by authority or reasoned opinion. A decision or order shall not be made except upon consideration of the record as a whole or ~~asuch~~ portion of the record~~thereof~~ as may be supported by competent material and substantial evidence.
- b) The hearing officer shall then submit findings, opinions and recommendations to the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1035 Order of the Director~~Commissioner~~

- a) The Director ~~Commissioner~~ shall review the hearing officer's findings, opinions and recommendations and shall issue an order as set forth by applicable statutes or within a reasonable time.
- b) The decision in the case will become effective immediately upon the execution of a written order, or as otherwise specified by either the order or applicable statute.
- c) Parties shall be immediately notified of the order, either personally or by mail, postage prepaid, certified or registered, addressed to the last known address of the person, partnership, association or company involved, ~~of the order~~. A copy of the

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order shall be delivered or mailed to each party and to the party's attorney of record.

- d) The ~~Director Commissioner~~ may require, in keeping with Section 1075.100(f) of this Part and as part of ~~thesaid~~ order, any party to the proceeding to pay part or all the costs of the hearing, including but not limited to: witness fees; court reporter fees; hearing officer fees; and the cost of the transcript.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1040 Rehearings

- a) Except as otherwise provided by law, and for good cause shown, the ~~Director Commissioner~~ may in the ~~Director's Commissioner's~~ discretion order a rehearing in a contested case on petition of an interested party.
- b) Where the record of testimony made at the hearing is found by the ~~Director Commissioner~~ to be inadequate for purposes of judicial review, the ~~Director Commissioner~~ may order a reopening of the hearing.
- c) A motion for rehearing or a motion for the reopening of a hearing shall be filed within ~~ten (10)~~ days ~~after~~ the date of mailing of the ~~Director's Commissioner's~~ order. A rehearing shall be noticed and conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for the ~~Director's Commissioner's~~ reconsideration and for judicial review. A decision or order may be amended or vacated after hearing.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1045 Existing Statutory or ~~DivisionAgency~~ Procedures and Practices

~~This~~ Subpart I ~~of this Part~~ shall not be construed to limit or repeal additional requirements imposed by ~~statute~~ ~~Statute~~ or otherwise, or to change existing ~~DivisionAgency~~ procedures ~~that~~ ~~which~~ are equivalent to or exceed the standards or administrative procedure prescribed in ~~this~~ Subpart I ~~of this Part~~.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1050 Costs of Hearing

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In addition to filing fees set forth in Section 1075.100 of this Part, each party to the hearing shall be required to pay its pro rata share of expenses, including the hearing officer's transcript and such other incidental cost as may be authorized by the hearing officer or by the Director~~Commissioner~~, unless waived by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1055 Emergency Adjudication

- a) The Director~~Commissioner~~ may use emergency adjudication proceedings in a situation involving an immediate danger to the public or welfare requiring immediate Division~~Agency~~ action.
- b) The Director~~Commissioner~~ may take only such action as is necessary to prevent or avoid the immediate danger to the public interest or welfare that justifies use of emergency adjudication.
- c) The Director~~Commissioner~~ shall render an Order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the Director's~~Commissioner's~~ discretion, to justify the determination of an immediate danger and the Director's~~Commissioner's~~ decision to take the specific action.
- d) The Division~~Agency~~ shall give such notice as is practicable to persons who are required to comply with the Order. The Order is effective when rendered.
- e) After issuing an Order pursuant to this Section, the Division~~Agency~~ shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.
- f) The Division's~~Commissioner's~~ record consists of any documents regarding the matter that were considered or prepared by the Division~~Agency~~. The Division~~Commissioner~~ shall maintain these documents as its official records.
- g) Unless otherwise required by a provision of law, the Division's~~Commissioner's~~ record need not constitute the exclusive basis for the Director's~~Commissioner's~~ action in emergency adjudication or for judicial review thereof. Under this Section, the Director~~Commissioner~~ may act on the basis of nonrecord information and may render his or her Order orally, if necessary, to cope with the emergency.

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART J: SAVINGS BANK HOLDING COMPANIES

Section 1075.1100 Applicability

- a) Subpart J of this Part shall apply to stock holding companies or savings banks that directly or indirectly own or control or seek to own or control 25% ~~percent~~ or more of the voting shares or rights of any insured institution in any manner and to mutual holding companies and mutual savings banks reorganizing as mutual holding companies. This Subpart does not apply when ~~thesueh~~ ownership arises in the regular course of business as set forth in Section 2001.05 of the Act.
- b) Except with the permission of the ~~Director~~Commissioner, no company shall become a savings bank holding company.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1105 Definitions

"Acquiree savings bank" means any subsidiary savings bank, other than a resulting savings bank, that is acquired by a mutual holding company as part of, and concurrently with, a mutual holding company reorganization and is in mutual form immediately prior to such acquisition.

"Affiliate" means any company that controls, is controlled by, or is under common control with a person.

"Assets" means the total assets of the savings bank minus goodwill and any other intangible assets, including but not limited to, purchased deposit base and branch network, and leasehold improvements net of accumulated depreciation.

"Capital stock" includes permanent stock, guaranty stock, permanent reserve stock, any similar certificate evidencing non-withdrawable capital, preferred stock, or convertible preferred stock of a savings bank created or acquired under this Subpart or of a subsidiary, institution or holding company.

"Charter" includes articles of incorporation, articles of reincorporation, or any similar instrument, as amended, effecting (either with or without filing with any

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government agency) the organization or creation of an incorporated or unincorporated person.

"Company" means a corporation or partnership, a savings bank, a joint stock company, a trust or an unincorporated organization.

"Control" is defined as it is in Section 1007.35 of the Act.

"Eligible account holder" means any person holding a qualifying deposit as of a given date.

"Eligibility record date" shall mean the record date for determining eligible account holders of an institution.

"Employee" does not include an organization ~~a~~ director or an officer.

"Equity security" means any stock or similar security or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase ~~asuch~~ security, or any ~~such~~-warrant or right.

"Member" means any person qualifying as a member of an insured institution pursuant to its charter or bylaws.

"Mutual savings bank" means a mutual savings bank organized and operating under the Act.

"Net worth" means the aggregate of capital stock accounts, capital surplus and retained earnings accounts and all other reserve accounts except valuation reserves and specific reserves ~~thatwhich~~ are in the nature of valuation reserves.

"Person" means an individual, a company, or a government or political subdivision ~~thereof~~.

"Pre-existing depository institution" means a subsidiary depository institution that is not an acquiree savings bank, a resulting savings bank or a savings bank in mutual form when acquired.

"Purchase" ~~orand~~ "Buy" ~~includesinclude~~ every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

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"Qualifying deposit" means a deposit determined pursuant to Section 1075.1935 of this Part.

"Reorganizing savings bank" means a mutual savings bank that proposes to reorganize to become a mutual holding company pursuant to this Subpart.

"Resulting savings bank" means a savings bank in stock form that is organized as a subsidiary of a reorganizing savings bank to receive the substantial portion of the assets, all the insured deposits, and part or all of the other liabilities of the reorganizing savings bank.

"Sale" ~~or~~ "Sell" ~~includes~~~~include~~ every contract to sell or otherwise dispose of a security or interest in a security for value; but these terms do not include an exchange of securities in connection with a merger or acquisition approved by the ~~Director~~~~Commissioner~~.

"Security" includes any stock, note, treasury stock, bond, debenture, transferrable share, investment contract, voting trust certificate, or, in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant, or right to subscribe to or purchase any of the foregoing.

"Stock" means common or preferred stock, or any other type of equity, security, including (without limitation) warrants or options to acquire common or preferred stock, or other securities that are convertible into common or preferred stock.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1110 Mutual Holding Company Reorganizations

A mutual savings bank may reorganize to become a mutual holding company, or join in a mutual holding company reorganization or thereafter as an acquiree savings bank or a pre-existing depository institution, only upon satisfaction of the following conditions:

- a) A Reorganization Plan is approved by a majority of the board of directors of the reorganizing savings bank and any acquiree savings bank or pre-existing depository institution.
- b) A Reorganization Notice is filed with the ~~Director~~~~Commissioner~~ and the ~~Director~~~~Commissioner~~ has given written notice of its approval of the proposed

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reorganization as being in accordance with applicable law.

- c) The Reorganization Plan is submitted to the members of the reorganizing savings bank and any acquiree pursuant to a proxy statement cleared in advance by the ~~Director~~ Commissioner and ~~the~~ such Reorganization Plan is approved by a majority of the total votes of the members of each savings bank eligible to be cast at a meeting held at the call of each savings bank's directors in accordance with the procedures prescribed by each savings bank's charter and bylaws. When the Reorganization Plan involves acquiring a pre-existing depository institution, the Plan is submitted to the stockholders of the pre-existing depository institution and is approved by the majority of the total votes of the shareholders eligible to be cast at a meeting held at the call of the institution's directors in accordance with the institution's charter and bylaws.
- d) All necessary regulatory approvals have been obtained and all requirements of this Subpart are met.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1111 Subsidiary Holding Company

As part of a mutual holding company reorganization or thereafter, a mutual holding company may establish a subsidiary stock holding company which shall wholly own and control the resulting savings bank and any acquiree savings banks. A subsidiary holding company shall be subject to Sections 1075.1225 and 1075.1330 as if it were a resulting savings bank. The subsidiary holding company shall be subject to Section 1075.1275(c) as if it were the mutual holding company and the mutual holding company shall remain subject to Section 1075.1275(c). The ~~Director~~ Commissioner may impose other requirements to ensure that the members of the resulting savings bank and any acquiree savings bank have the same rights, opportunities, and protection as if no subsidiary stock holding company been established.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1115 Prohibition Against Approval of Certain Applications for Reorganization

No application for reorganization may be approved by the ~~Director~~ Commissioner if:

- a) The plan of reorganization adopted by the applicant's board of directors is not in accordance with this Subpart;

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- b) The reorganization reasonably could be expected to result in a resulting or acquiree savings bank or pre-existing depository institution with capital below requirements established by the DirectorCommissioner and by Federal law;
- c) The reorganization results in a taxable reorganization under the United States Internal Revenue Code of 1986 (26 USC U.S.C. 1 et seq.) and the DirectorCommissioner upon a written finding determines that the reorganization will endanger the safety and soundness of a resulting or acquiree or pre-existing savings bank; or
- d) A resulting savings bank does not secure insurance of its deposit accounts backed by the full faith and credit of the United States government before reorganization.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1120 Contents of Reorganization Plans

Each Reorganization Plan shall contain a complete description of all the significant terms of the proposed reorganization, shall attach and incorporate any Stock Issuance Plan proposed in connection with the Reorganization Plan, and shall:

- a) Provide for amendment of the charter and bylaws of the reorganizing savings bank in accordance with this Subpart and attach and incorporate thesueh charter and bylaws;
- b) Provide for the incorporation and organization of the resulting savings bank in accordance with this Subpart and attach and incorporate all required material;
- c) Provide for amendment of the charter and bylaws of any acquiree savings bank to read in the form of the charter and bylaws of a stock savings bank and attach and incorporate thesueh charter and bylaws;
- d) Provide for the transfer of assets and liabilities pursuant to Section 2007(a)(2) of the Act and this Subpart from the reorganizing savings bank to the resulting savings bank;
- e) Provide that all assets, rights, obligations, and liabilities of whatever nature of the reorganizing savings bank that are not expressly retained by the mutual holding company shall be deemed transferred to the resulting savings bank;

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- f) Provide that each depositor in the reorganizing savings bank, any acquiree savings bank, or any pre-existing depository institution immediately prior to the reorganization shall upon consummation of the reorganization receive without payment, an identical account in the resulting savings bank or the acquiree savings bank, as the case may be (appropriate modifications shall be made to this provision if a merger is a part of the reorganization);
- g) Provide that the Reorganization Plan as adopted by the boards of directors of the reorganizing savings bank, any acquiree savings bank and any pre-existing depository institution may be substantively amended by those boards of directors as a result of comments from regulatory authorities or otherwise prior to the solicitation of proxies from the members of the reorganizing savings bank and any acquiree savings bank or stockholders of any pre-existing depository institution to vote on the Reorganization Plan and at any time thereafter with the concurrence of the ~~Director~~Commissioner; and that the reorganization may be terminated by the board of directors of the reorganizing savings bank, any acquiree savings bank or any pre-existing depository institution at any time prior to the meeting of the members or stockholders called to consider the Reorganization Plan and at any time thereafter with the concurrence of the ~~Director~~Commissioner; the ~~Director~~Commissioner shall concur with an amendment or termination under this Section unless he or she finds that to do so would be inequitable to members or injurious to a savings bank;
- h) Provide that the Reorganization Plan shall be terminated if not completed within a specified period of time. The time period shall not be more than 24 months from the date upon which the members of the reorganizing savings bank or the date upon which the members of any acquiree savings bank, or stockholder of any pre-existing depository institution, whichever is earlier, approve the Reorganization Plan and may not be extended by the reorganizing or acquiree savings bank or the pre-existing depository institution; and
- i) Provide that the expenses incurred in connection with the reorganization shall be reasonable.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1210 Liquidation Account and Proxies

- a) Each mutual savings bank converting to form a holding company must establish a

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"liquidation account" for members of the mutual savings bank before conversion. The liquidation account may be maintained at a holding company level or by the savings bank. The total amount allocated to the liquidation account shall be equivalent to the amount of stock issued to the holding company by the stock subsidiary upon infusion of assets and liabilities to the stock subsidiary.

- b) Each member of the liquidation account who maintains an account in the stock subsidiary savings ~~banks~~bank(s) shall be entitled, upon liquidation of the mutual holding company, to a fractional share of the value of the mutual holding company. The numerator of the fractional share shall be the amount of qualifying deposits in the member's account on the record eligibility date, which date shall be set by the board of directors in their Plan of Conversion and/or application to form a mutual holding company, and/or the supplemental eligibility record date and the denominator of the fractional share shall be the total amount of qualifying deposits of all eligible and supplemental eligible account holders in the converting mutual savings bank on the eligibility record date. Any plan to liquidate the mutual holding company must be approved by the ~~Director~~ Commissioner and must satisfy all claims of creditors, including liquidation account holders. Any remaining value in the mutual holding company shall be transferred to the capital accounts of the subsidiary stock savings ~~banks~~bank(s).
- c) All proxies previously executed and assigned by members of the mutual savings bank converting to form a holding company shall remain valid and effective without impairment as long as the member maintains an account in the new stock savings bank.
- d) A liquidation account need not be established under this Section if one is established under Section 1075.1225 and Subpart O of this Part.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1215 Mutual Holding Company Ceasing to be a Depository Institution

- a) Each mutual savings bank ~~that~~which converts to holding company status in conjunction with the chartering of a stock subsidiary shall be issued a "restated or amended charter" as a mutual holding company by the ~~Director~~ Commissioner and the ~~organization~~ directors shall either return the original charter, insurance undertakings and certificate of insurance to the issuing authority, as evidence of ceasing to be an insured depository institution or may transfer them to the stock subsidiary with permission of the ~~Director~~ Commissioner. ~~The Director's~~Sueh

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permission shall be given upon successful completion of an examination to assure conformance with regulatory and statutory requirements.

- b) Upon the issuance of the charter of a stock savings bank by the Director~~Commissioner~~, a mutual holding company shall cease to be a savings bank.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1220 Directors of a Mutual Holding Company

- a) Each new board of directors for the mutual holding company shall be selected by vote of members, in a process to be determined by the bylaws of each entity.
- b) Each board of directors shall have at least five members.
- c) Sections 4008, 4009, 4010, and Article 11 of the Act shall apply to a mutual holding company with regard to organization directors' vacancies, organization directors' attendance at meetings, qualifications to be an a-organization director, enforcement powers, and similar matters, except that the mutual holding company may file a written request for waiver of compliance with any provision with the Director~~Commissioner~~. ~~The~~Such request must provide detailed discussion of the grounds for ~~thesueh~~ request. In determining whether to grant a waiver of compliance, the Director~~Commissioner~~ shall consider the following factors, including, but not limited to:
- 1) whether applications of those provision to mutual holding companies would be inappropriate because the provisions are drafted for savings banks;
 - 2) whether a mutual holding company and its subsidiary meet or exceed all applicable capital requirements and are not in violation of any statutes or rules;
 - 3) whether there are pending contested regulatory matters; and
 - 4) whether waiver would work undue hardship or result in undue advantage or risk, prejudicing a situation currently or in the future.
- d) Upon creation of the resulting savings bank, the board of directors of the

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reorganizing savings bank shall nominate a board of directors for the resulting savings bank.

- e) A mutual holding company may provide for cumulative voting for organization directors in its bylaws.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1225 Stock Issuance Plan

If the reorganizing savings bank ~~offers~~~~shall offer~~ stock to any party other than the mutual holding company, it shall submit a stock issuance plan that meets~~which shall meet~~ the following conditions:

- a) At all times, a mutual holding company shall own and control more than 50% of each class of common stock and more than 50% of the capital stock in the aggregate, issued by the resulting savings bank, any acquiree savings bank, or any savings bank, in the mutual form when acquired. The foregoing restriction shall not apply to an acquisition by a mutual holding company of a pre-existing depository institution.
- b) Any capital stock issued and offered for sale by a subsidiary savings bank as described in subsection (a) of this Section, to persons other than the mutual holding company, shall be offered in accordance with Subpart O of this Part, but subject to subsection (d) of this Part except that:
- 1) the words "mutual savings bank" shall refer to resulting savings banks or acquiree savings banks;
 - 2) references to conversion from mutual to stock form shall refer to mutual holding company reorganization;
 - 3) the words "plan of conversion" shall refer to the Reorganization Plan;
 - 4) the words "total offering", and "offering" shall refer to the minority portion of the capital stock issuance that may be offered and purchased by persons other than the mutual holding company;
 - 5) Sections 1075.1990 and 1075.2170 of this Part shall not apply;

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- 6) At Section 1075.2110 of this Part, the reference to Section 1075.2160 of this Part shall not apply and the words "converted savings bank" shall refer to the resulting stock savings bank;
 - 7) Nothing in Section 1075.2150 of this Part shall interfere with the requirements of subsection (a) of this Section; and
 - 8) At Section 1075.1950 of this Part, receipt of a liquidation distribution from the liquidation account shall be in the event of a complete liquidation of the mutual holding company rather than the converted savings bank.
- c) To the extent the pricing materials submitted pursuant to Subpart O of this Part include any discount due to the minority status of the stock to be offered, the materials must indicate the amount of the discount and how that amount was determined. Furthermore, if the plan calls for a waiver of dividends for the shares owned by the mutual holding company, the materials should indicate whether this waiver results in an ability to pay higher dividends to minority shareholders and, if so, why the discount is nonetheless warranted.
 - d) The ~~Director~~ Commissioner may waive a requirement of Subpart O of this Part upon a finding that ~~the such~~ waiver would not work an injury on the mutual holding company or its subsidiaries, that it would be inequitable to members and eligible account holders, that the reorganization, if the waiver is granted, provides protections and opportunities equivalent to those that would exist if no waiver were granted, and that no other course of action that fully complies with Subpart O of this Part and this Subpart exists.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1230 Stock of a Subsidiary of a Mutual Holding Company

- a) A resulting savings bank shall issue shares to the holding company only after sufficient assets to match transferred deposit liabilities are transferred to the resulting savings bank and, if applicable, an acquiree savings bank and after written confirmation of continuation of insurance of accounts is received from the deposit insurance corporation.
- b) Stock issuance shall initially be only common stock, but other classes of stock may be issued upon application to and approval by the ~~Director~~ Commissioner.

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- c) Each share of common stock shall entitle its owner to one vote.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1235 Stock Subsidiary Formation

In conjunction with the formation of a resulting savings bank of a mutual holding company, the requirements of Article 3, Incorporation and Organization, of ~~the~~The Act shall apply with the following additions.

- a) In the case of a change of corporate form, which does not alter the assets and liabilities of the reorganizing savings bank, or any acquiree savings bank, as transferred to the resulting savings bank with regard to their amount or quality, the "minimum initial capital...which would be required to obtain insurance of accounts by the Federal Deposit Insurance Corporation" shall mean the amount of minimum capital which the reorganizing savings bank, or any acquiree savings bank, was required to have to maintain its federal insurance of accounts.
- b) The application to organize shall be made by the organization directors of the reorganizing savings bank. Copies of organization directors' and officers' affidavits and statements of personal interest from the last ~~five (5)~~ years' examination reports may be submitted to the Director~~Commissioner~~ to the extent that they provide business and financial information on affiliations with any other financial institutions. Each applicant shall submit amendments to these materials to provide omitted, but required, information.
- c) Exhibits and maps shall display the original and new savings bank's customer area, and provide quarterly Federal and/or State reports for the four quarters preceding application, as well as the reorganizing savings bank's last ~~two (2)~~ audited financial statements.
- d) The Director~~Commissioner~~ may require information as to:
- 1) how stock shall be distributed. Such reports shall be required upon formation of the holding company, before issuance or marketing of stock and at any other time necessary to ensure fundamental fairness to stockholders, members, depositors and for reasons related to the safe and sound financial operation of any resulting savings bank, acquiree savings bank, or pre-existing depository institution;

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- 2) the form and manner of expressing ownership; and
 - 3) the amount of treasury stock ~~that~~which shall be held; and any planned issuances of capital stock or equity securities, with projected dates and amounts.
- e) Once the resulting savings bank is formed, if the reorganizing savings bank no longer retains any deposits, it shall no longer be required to maintain insurance of accounts.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1245 Members' Rights

Rights of members of the resulting savings bank, acquiree savings bank, any savings banks in the mutual form when acquired shall be transferred to the mutual holding company, except that a savings bank may eliminate borrowers' rights in the process of forming the holding company by incorporating a new definition of membership in the holding company's and subsidiaries' Articles of Incorporation. Each depositor in the resulting savings bank, an acquiree savings bank, and any savings banks in the mutual form when acquired shall be a member of the mutual holding company and shall have one vote for each \$100 of value of each account; notwithstanding the foregoing restriction, a mutual holding company may upon giving notice to the ~~Director~~Commissioner limit the number of votes cast by any persons to 1000 votes unless the ~~Director~~Commissioner finds upon review of relevant law and facts, the limitation is inequitable to depositors.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1250 Investment

A mutual holding company may invest in the stock of or other forms of equity ownership of any company or entity which the board of directors determines to be in the best interests of stock owners and depositors, and such investment shall be documented in the holding company's minutes with reference to items such as price/earnings rates, future prospects, sources of income, level of risk, compatibility with the overall business plan of the holding company and complete disclosure of any ~~organization~~ directors', officers', employees' or ~~5%-percent~~ or more stockholders' interests in the entity.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

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Section 1075.1255 Notice Requirement/Corrective Action

A holding company shall give immediate written notice to the ~~Director~~Commissioner of any corrective action ordered or requested by a governmental agency, relative to the financial affairs of the holding company, except those actions ordered by the ~~Director~~Commissioner of Banks and Real Estate. A holding company shall give written notice before acting upon such orders or requests, except when such order is effective immediately upon receipt. The method of transmittal shall be by messenger mail, private messenger service or telefax transmittal. Any such corrective actions required to be performed immediately shall be reported to the ~~Director~~Commissioner within ~~twenty-four (24)~~ hours ~~after~~of receipt.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1260 Insider Abuses

Matters or issues resulting from apparent wrongdoing, including insider abuses, shall be brought to the ~~Director's~~ ~~Commissioner's~~ attention within ~~ten (10)~~ business days after discovery, by the appropriate management personnel of the holding company. Copies of any required reports, including police and Federal Bureau of Investigation reports, shall be included with the notification to the ~~Director~~Commissioner.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1265 Determination of the Qualification and Condition of an Out-of-State Acquisition

When requested, the ~~Director~~ ~~Commissioner~~ shall review the laws of any state to determine whether the laws of that state expressly authorize an Illinois savings bank holding company to acquire a savings bank or savings bank holding company in that state. The ~~Director~~ ~~Commissioner~~ shall issue a finding that such other state law either does or does not provide qualifications and conditions ~~that~~which are unduly restrictive for the acquisition when compared to those imposed by the laws of Illinois.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1270 Acquisition and Disposal of Subsidiaries

- a) As permitted by the Act, ~~this Part~~the rules promulgated thereunder, and applicable federal law, a mutual holding company, with approval of its board of directors, the ~~Director~~Commissioner, and its members, may:

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- 1) acquire control of, or make non-controlling investments in the stock of, a stock depository institution or stock depository institution holding company;
 - 2) acquire a mutual savings bank, upon approval of acquiree's board of directors and members, pursuant to a merger into the resulting savings bank, into an acquiree savings bank, or into another savings bank that was in the mutual form when acquired or with a bridge charter;
 - 3) acquire a mutual savings bank or savings bank holding company, upon approval of the acquiree's board of directors and members, by merging with the mutual savings bank holding company;
 - 4) acquire control of, or make non-controlling investments in the stock of, other corporations.
- b) A stock holding company may make acquisitions or investments or enter into mergers as permitted by the Act, ~~this Part~~the rules promulgated thereunder, and applicable federal law with approval of its board of directors, the ~~Director~~Commissioner and its stockholders.
- c) Each holding company disposing of a subsidiary shall give not less than 30 days prior notice of ~~thesuch~~ planned disposition to the ~~Director~~Commissioner. Disposal of a subsidiary must be approved by the ~~Director~~Commissioner.
- d) The ~~Director~~Commissioner shall approve a transaction contemplated by this Section upon finding that the transaction complies with applicable law, has received necessary approvals under federal law, and is not inequitable to members or injurious to a savings bank.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1275 Dividend Limitations and Waivers

- a) No subsidiary savings bank may declare or pay a cash dividend on or repurchase any of its capital stock unless the declaration or payment of the dividend or repurchase would be in accordance with the requirements of Section 5008 of the Act and would not reduce the capital of the converted savings bank below the greatest of:

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- 1) the amount required for the liquidation account;
 - 2) the amount required by the Director~~Commissioner~~; or
 - 3) the amount required by federal law.
- b) A converted mutual savings bank may pay dividends on preferred stock at the rate or rates agreed in connection with the issuance of preferred stock, if such issuance has been approved by the Director~~Commissioner~~. However, the Director~~Commissioner~~ shall approve no issuance or payment that would reduce the capital of the converted savings bank below the greatest of:
- 1) the amount required for the liquidation account;
 - 2) the amount required by the Director~~Commissioner~~; or
 - 3) the amount required by federal law.
- c) No mutual holding company may waive its right to receive any dividend declared by a subsidiary unless:
- 1) No insider of the mutual holding company, associate of an insider, or tax-qualified or non-tax-qualified employee stock benefit plan of the mutual holding company holds any share of stock in the class of stock to which the waiver would apply; or
 - 2) The mutual holding company provides the Director~~Commissioner~~ with written notice of its intent to waive its right to receive dividends 30 days prior to the proposed date of payment of the dividend and the Director~~Commissioner~~ does not object. The Director~~Commissioner~~ shall not object to a notice of intent to waive dividends if:
 - A) the waiver would not be detrimental to the safe and sound operation of the savings bank; and
 - B) the board of directors of the mutual holding company expressly determines that waiver of the dividend by the mutual holding company is consistent with the organization directors' fiduciary duties to the mutual members of thesuch company. A dividend

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waiver notice shall include a copy of the resolution of the board of directors of the mutual holding company, in form and substance satisfactory to the ~~Director~~ Commissioner, together with any supporting materials relied upon by the board, concluding that the proposed dividend waiver is consistent with the board's fiduciary duties to the mutual members of the mutual holding company.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1280 Officers and Organization Directors List

The secretary of each holding company shall submit to the ~~Director~~ Commissioner a list of all officers and organization directors of the holding company. This list shall be submitted within 10 days after the election of the holding company's board of directors, and any changes or additions in the list shall be submitted to the ~~Director~~ Commissioner within 10 days after the occurrence of ~~thesueh~~ change or addition. Along with ~~thesueh~~ list there shall also be submitted an affidavit executed by each officer and organization director containing a statement ~~thatwhich~~ shall set forth details as to the present and, for the 5 years preceding, the business of every officer and organization director and the nature of their prior affiliations with any financial institution and its subsidiaries, holding company or subsidiary of a financial institution holding company.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1285 Access to Books and Records

The ~~Director~~ Commissioner shall have access to subsidiaries' and holding companies' books and records.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1290 Annual Audit Requirements

Every holding company shall cause its books and records to be audited at least once annually by an independent licensed public accountant. The ~~Director~~ Commissioner shall receive a copy of the licensed public accountant's annual audit report, along with all supporting documentation. The report of audit shall be on a consolidated basis unless, in the auditor's opinion, certain subsidiaries or parent entities should be reported on separately. If separate reports are prepared, they should be prepared on the same basis as the report on the holding company.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

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Section 1075.1300 Notice of Appointment of Independent Accountants

- a) Notice shall be made to the ~~Director~~ Commissioner of the appointment of the licensed public accountant not less than ~~sixty (60)~~ days before the fiscal year-end of the holding companies. Any change in the licensed public accountants shall be forwarded to the ~~Director~~ Commissioner within ~~sixty (60)~~ days ~~after the of such~~ change along with a letter from the replaced accountant stating whether the change was the result of a dispute over the accounting treatment of a material matter.
- b) Copies of the Annual Audit shall be filed, in triplicate, with the ~~Division Office~~ of Banks and Real Estate within ~~ninety (90)~~ days ~~after of~~ the fiscal year-end of the registrant.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1310 Holding Company Supervisory Fees

- a) Each savings bank holding company operating under the Act as of the close of each calendar year shall pay annually to the ~~Director~~ Commissioner a fee of \$5.00 per million dollars of consolidated assets (excluding the assets of any Illinois State-chartered savings bank or savings and loan association) of the savings bank holding company and its subsidiaries. ~~The Such~~ fee shall be based on the total assets of each savings bank holding company and each subsidiary as shown by its financial report filed with the ~~Director~~ Commissioner for the reporting period ended December 31. ~~The Such~~ fees shall be for the calendar year then ended. Computations shall omit hundreds from the total assets and the fee shall be rounded to the nearest thousand dollar amount.
- b) One fourth of the sum of the supervisory fee so determined shall be remitted at the time of each calendar quarter end. A calendar quarter end shall mean March 31, June 30, September 30, and December 31. ~~The Such~~ fees shall be for the respective current calendar year.
- c) Supervisory fees shall be determined by the ~~Director~~ Commissioner within ~~ninety (90)~~ days following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any ~~such~~ fees billed at a later date.

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- d) ~~When~~~~In the situation where~~ service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the ~~Director~~~~Commissioner~~ shall waive that portion of the fee attributed to the finance subsidiary.
- e) In the event the ~~State~~~~state~~ charter is converted or otherwise surrendered during the year, the ~~Director~~~~Commissioner~~ shall determine the supervisory fee based on the total assets of the savings bank holding company as of the month-end immediately preceding the cancellation of the ~~State~~~~state~~ charter, except that the measurement date may be another date at the discretion of the ~~Director~~~~Commissioner~~ in the event a savings bank holding company elects to liquidate. In determining whether to set another measurement date, the ~~Director~~~~Commissioner~~ shall consider the following elements: whether the savings bank is undergoing a planned liquidation (where a savings bank elects to not continue operations); or the savings bank has transferred significant assets (more than ~~.5%~~ ~~1/2 of 1 percent~~ of the total assets at the previous measurement date).

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1315 Examination Fees

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

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1325 Manner of Payment

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

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[Regulation Office of Banks and Real Estate](#).

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1330 Conversion of Mutual Holding Companies

With approval of the [DirectorCommissioner](#), upon a finding by the [DirectorCommissioner](#) that the conversion complies with applicable law, has received necessary approvals under federal law, and is not inequitable to members or injurious to a savings bank, a mutual holding company may convert to a capital stock holding company. Any capital stock issued and offered for sale by a converting holding company shall be offered in accordance with Subpart O of this Part except that:

- a) The words "mutual savings bank" shall refer to mutual holding company.
- b) Section 1075.2170 of this Part shall not apply unless a subsidiary depository institution does not meet applicable capital requirement and the mutual holding company is unable to meet the requirements of the applicable net worth agreement entered into under Section 1075.1240 of this Part.
- c) Requirements in Subpart O of this Part for filing presentation or disclosure of financial, regulatory operations or management information shall apply to either the mutual holding company or its subsidiaries, or both, whichever filing, presentation or disclosure provides, as determined by the [DirectorCommissioner](#), the most complete description of the mutual holding company and its subsidiaries.
- d) Stock issued pursuant to Section 1075.1225 of this Subpart may be exchanged for stock issued by the mutual holding company in a conversion of the mutual holding company to stock form under this Section if the mutual holding company demonstrates that the exchange is equitable to the subsidiary depository institution and the mutual holding company members.
- e) The [DirectorCommissioner](#) may waive a requirement of Subpart O of this Part upon a finding that [thesuch](#) waiver is not injurious or inequitable to the mutual holding company or its subsidiaries, that it is not inequitable to members or eligible account holders, that the conversion, if the waiver is granted, provides the equivalent protections and opportunities as a conversion that fully complies with Subpart O of this Part and this Section, and that no other course of action that fully complies with Subpart O of this Part and this Section exists.

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART K: CONVERSION OF AN EXISTING DEPOSITORY INSTITUTION
INTO AN ILLINOIS SAVINGS BANK**Section 1075.1400 Scope of Rules**

No existing depository institution shall convert to an Illinois savings bank without the written approval of the ~~Director~~ ~~Commissioner~~ pursuant to ~~this Subpart~~ ~~these rules~~.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1410 General Rules for Conversion Plan

- a) An application for conversion shall be approved only if the ~~Director~~ ~~Commissioner~~ finds that:
- 1) the conversion plan adopted by the applicant's board of directors or trustees (~~hereinafter~~ "board"), and all documentation submitted in support of the application for conversion complies with the provisions of ~~this Part~~ ~~these regulations~~, the Act, and other applicable provisions of law;
 - 2) the resulting savings bank will operate in a safe, sound and prudent manner;
 - 3) the conversion plan will result in a savings bank that has adequate capital, and satisfactory management and earnings prospects as prescribed in the Act;
 - 4) the owners and ~~organization~~ directors of the converting depository institution and of the resulting savings bank are qualified by character and financial responsibility to legally and properly control and operate the proposed savings bank to be formed as a result of the conversion plan;
 - 5) the converting depository institution has taken steps to obtain insurance of accounts from the deposit insurance corporation;
 - 6) the conversion plan is equitable to account holders, borrowers, creditors, employees or stockholders and is in the public interest; and

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- 7) the converting institution has paid all outstanding bills for supervisory fees, examination fees, and penalties associated with its original charter.
- b) The experience and the performance record of the persons to be in control or in key management positions shall be evaluated by the Director~~Commissioner~~ as to the probability of sound operation of the resulting savings bank.
- c) The Director~~Commissioner~~ shall make the same investigation and determine the same questions as would be required by law to make and determine in the case of the submission to the Director~~Commissioner~~ of an Articles of Incorporation for a proposed new Illinois savings bank.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1415 Adopting and Filing of a Conversion Plan

- a) The board of directors of an existing depository institution desiring to convert in accordance with this Part~~these regulations~~ shall adopt a conversion plan at a meeting of the~~such~~ board of directors.
- b) Upon the adoption of the conversion plan as provided in subsection (a)-~~above~~, an existing depository institution shall file with the Director~~3 Commissioner~~ ~~three~~ copies of the application for approval of a Plan of Conversion, which shall include the conversion plan and each document required to be part of the conversion plan. The application shall be in the form required by the Director~~Commissioner~~.
- c) An application for approval of a conversion plan shall be on forms prescribed by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1430 Issuance of Certificate of Approval

The Director~~Commissioner~~, upon approving a conversion plan, shall issue a certificate of approval of the conversion plan which shall authorize the applicant to proceed with its conversion plan. The Director~~Commissioner~~ may add such conditions to the certificate of approval as he or she considers necessary.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

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Section 1075.1435 Final Approval of the Conversion

- a) Upon a determination by the ~~Director~~ Commissioner that all applicable requirements of law have been met, including the surrender of the original charter, the ~~Director~~ Commissioner shall issue to the applicant a Certificate of Authority to Operate. The savings bank shall then file its amended charter and Articles of Incorporation as an Illinois savings bank with the County Recorder in the county in which the savings bank is headquartered.
- b) Upon ~~such~~ filing, the applicant shall be an Illinois savings bank under sole supervision of the ~~Director~~ Commissioner and of the Federal Deposit Insurance Corporation.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1450 Organization Directors of Resulting Savings Bank

The persons named as organization directors in the Plan of Conversion shall be the organization directors of the resulting savings bank until the first election of organization directors thereafter, or until the expiration of their terms as organization directors, and shall have the power to take all necessary measures and to adopt regulations concerning the business and management of the resulting converted savings bank.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART L: SUPERVISION

Section 1075.1500 Sale of Offices, or ~~Facilities and Equipment~~**Offices and Facilities**

- a) Except the sale of a branch office under Section 1075.740 of this Part, a savings bank contemplating sale of any office or facility must provide 90 days notice to the ~~Director~~ Commissioner of its intent to do so. A copy of a signed letter of intent to purchase must be received by the ~~Director~~ Commissioner at least 30 days before the closing date of the contemplated sale.
- b) Notice to the ~~Director~~ Commissioner shall include:

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- 1) addresses of the facilities and offices to be sold;
- 2) analyses of the accounts, loans and obligations of the facilities' and offices' business;
- 3) a draft of notifications to be sent to all parties who would be affected by the sale, including depositors, creditors, account holders, and borrowers;
- 4) notifications must detail names and addresses of the seller and buyer, what business will be transferred to the buyer, if anything shall remain with the seller, when business remaining with the seller will be administered;
- 5) all final notifications under this Section must be registered mail, certified mail, or personally delivered. A time schedule for notifications must be included; and
- 6) an analysis of the effect on the selling savings bank's financial condition, including discussion of any accounting issues, and pro forma financial statements for before and after the transaction. Specific discussion must be included about the manner of payment and deviation of pricing.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1520 Bridge Charters

- a) A savings bank may apply to the ~~Director~~~~Commissioner~~ for authority to form a "bridge charter" to facilitate a corporate restructuring or voluntary change, only on condition that an additional savings bank is not created. Organization of a bridge charter shall not be subject to the requirements of Article 3 of the Act.
- b) The ~~Director~~~~Commissioner~~ may only authorize the formation of an interim savings bank charter under this Section. An applicant desiring another type of financial institution charter shall apply for same to the regulator appropriate to that charter.
- c) Each application shall specify the purpose of the interim charter, the required end result, the ownership size, capital business plan, management structure, and duration of the initial, interim and final savings bank.
- d) An applicant for an interim charter under this Section shall inform the

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~~Director~~Commissioner of any transaction contemplating use of an interim ~~charter~~Charter at least 90 days before the closing date of the transaction.

- e) Except to the extent established by the original savings bank, no interim charter may do retail business with the public; ~~advertise~~advertising; make purchases; or pay salaries, bonuses, or fees, ~~or~~ obligate to hire, or contract.
- f) An interim charter may exist for no more than ~~3~~three days, which may not be business days. On a normal business day, an interim charter may not be in existence for more than the time required to sign or otherwise finalize documents.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1530 Unsafe and Unsound Practices

If the ~~Director~~Commissioner receives notice of failure to renew or of cancellation of the bond required by Section 4009(a) of the Act, or if such bond is determined, from examination or from reports made by the savings bank, to be inadequate when compared ~~to~~with the amounts of ~~the~~such bond carried by savings banks of comparable capital size, pursuing similar investment policies and similar management capabilities, ~~or~~with amounts required by its federal insurer of accounts, he or she shall immediately pursue one of the remedies enumerated in Articles 9 and 10 of the Act.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1540 Failure to Comply with Report of Examination

If the ~~Director~~Commissioner determines that a savings bank has failed to comply with recommendations made in or as the result of a report of examination within ~~forty five (45)~~ days after the date the report is transmitted, then he or she may poll the savings bank's officers and board of directors personally concerning his or her recommendations, and, absent convincing or compelling changes of information, market conditions or financial condition of the savings bank, he or she shall summarily issue a temporary suspension in writing to officers and organization directors who refused or prevented taking the recommended steps. ~~The~~Such suspension shall bar the specified individual until the Order is modified or vacated by the ~~Director~~Commissioner.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART M: REMOVALS, SUSPENSIONS AND INDUSTRY WIDE PROHIBITION

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Section 1075.1600 Scope

The ~~Director~~Commissioner, in accordance with the Act and ~~this Part~~these rules, may remove or suspend any officer, organization director, employee or agent of a savings bank operating under the Act or prohibit an individual from further participation in any manner in the affairs at any savings bank operating under the Act.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1610 Notice of Intention and Answer

- a) Subject to Section 1075.1630 of this Part, proceedings to remove or suspend an officer, organization director, employee or agent of a savings bank operating under the Act or to prohibit an individual from further participation in any manner in the affairs of any savings bank operating and regulated under the Act shall commence upon service of Notice of Intention to Remove, Suspend or Prohibit.
- b) The notice shall:
 - 1) state the grounds for the action;
 - 2) recite the statutory basis for the action;
 - 3) be signed by the ~~Director~~Commissioner;
 - 4) be with a notice of hearing on the matter that sets a hearing date within ~~thirty (30)~~ days ~~after~~of service of the notice of intention and names a hearing officer who shall conduct the hearing; and
 - 5) include a copy of the ~~Director's~~ Commissioner's rules pertaining to hearings.
- c) Hearing shall be pursuant to ~~this Part~~these rules.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1620 Removal and Prohibition by Order

In the event of consent, or, if upon the record submitted by the presiding hearing officer pursuant to ~~this Part~~these rules, and subject to Section 1075.1630 of this Part, the ~~Director~~Commissioner

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finds that any of the charges have been established, the Director~~Commissioner~~ may issue an Order of removal or suspension from office or of prohibition from participation in any manner in the affairs of a savings bank operating under the Act. ~~The~~Such an Order is effective upon service (except in the case of an Order issued upon consent ~~that, which~~ is effective at the time specified ~~in the Order~~therein) and shall remain effective and enforceable unless stayed, modified, terminated or set aside by action of the Director~~Commissioner~~ or a reviewing court.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1630 Suspension by Notice

- a) Upon determination that ~~suspensionsuch action~~ is necessary for the protection of a savings bank operating under the Act or for depositors and in accordance with the Act and ~~this Part~~these rules, the Director~~Commissioner~~ may by notice suspend an officer, organization director, employee or agent of a savings bank operating under the Act and suspend ~~thean~~ individual from participation in any manner in the affairs of any savings bank operating under the Act.
- b) A suspension Order by the Director~~Commissioner~~ issued pursuant to this Section shall be in effect and enforceable upon service and, unless stayed by a reviewing court, shall remain in effect until the charges are dismissed and the administrative proceedings are completed, or until the effective date of any final Order of removal, suspension or prohibition that is issued by the Director~~Commissioner~~.
- c) A suspension Order by the Director~~Commissioner~~ issued pursuant to this Section shall:
 - 1) contain findings of fact sufficient to support imposition of a suspension by notice;
 - 2) recite the statutory basis for the Order;
 - 3) appoint a hearing officer;
 - 4) impose an immediate suspension of participation in any manner in the affairs of any savings bank operating under the Act;
 - 5) be signed by the Director~~Commissioner~~ or by a person authorized to act in her or his stead; and

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- 6) be with a notice of suspension that:
- A) sets a hearing date within ~~thirty (30)~~ days ~~after~~of the date on which the Order takes effect;
 - B) names the hearing officer who shall conduct the hearing; and
 - C) includes a copy of the ~~Director's Commissioner's~~ rules pertaining to hearings.
- d) Subject to this Subpart M ~~of this Part~~, hearing shall be pursuant to Subpart I of this Part.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1640 Industrywide Prohibition

- a) Any person subject to an Order of removal or suspension or prohibited from participation in any manner in the affairs of a savings bank operating under ~~the~~The Act upon an Order of the ~~Director~~Commissioner, without hearing on the matter, shall be prohibited from participation in any manner in the conduct of affairs of a savings bank regulated by the State of Illinois, another insured depository institution regulated by the State of Illinois, or any other financial services entity regulated by the State of Illinois.
- b) An Order for industrywide prohibition shall:
- 1) state the grounds for the industrywide prohibition;
 - 2) recite the statutory basis for the action;
 - 3) include the Order of removal, suspension or prohibition to which the party is subject; and
 - 4) be signed by the ~~Director~~Commissioner.
- c) Notwithstanding subsection (a) ~~above~~, a prohibition from participation shall cease to apply to the party, but only to the extent that consent is granted, if, on or after the date an Order is issued under this Section a party receives the written consent of:

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- 1) the ~~Director~~Commissioner; and
 - 2) all other regulatory bodies of the insured depository institution or financial services entity to which the party proposes to participate in the conduct of affairs.
- d) Request for consent of the ~~Director~~ Commissioner shall be made in writing to the ~~Director~~Commissioner. The decision of the ~~Director~~Commissioner is not reviewable. The request shall include:
- 1) a written statement of the consent that is requested;
 - 2) a written statement of the proposed participation in the conduct of affairs of an insured depository institution financial or financial services entity; and
 - 3) a written statement, supported by all relevant documentation, of the reasons why the party believes consent should be granted.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1650 Unauthorized Participation of Convicted Individual

- a) Upon a finding by the ~~Director~~Commissioner, without hearing on the matter, that a current or proposed officer, ~~organization~~ director, agent or employee of a savings bank operating under the Act has been convicted of any criminal offense involving dishonesty or a breach of trust, the ~~Director~~Commissioner shall Order that such person shall not participate in any manner, at the conduct of affairs at a savings bank operating under the Act.
- b) The Order of the ~~Director~~Commissioner shall:
 - 1) state the grounds for the Order;
 - 2) recite the statutory basis for the Order;
 - 3) include true copy of the final judgment of the conviction of the individual; and

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- 4) be signed by the Director~~Commissioner~~.
- c) Notwithstanding subsection (a) ~~above~~, the Director~~Commissioner~~, upon prior request, may grant written consent to participate in a savings bank operated under the Act. A request must be made in writing to the Director~~Commissioner~~. The decision of the Director~~Commissioner~~ is not reviewable.
- d) Request for consent of the Director~~Commissioner~~ shall be made in writing to the Director~~Commissioner~~. The request shall include:
 - 1) a written statement of the consent that is requested;
 - 2) a written statement of proposed participation in the conduct of affairs of an insured depository institution or financial services entity; and
 - 3) a written statement, supported by all relevant documentation, of the reasons why the party believes consent should be granted.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART N: ACQUISITION OF CONTROL OF SAVINGS BANK

Section 1075.1700 Acquisition of Control of Savings Bank

- a) As used in this Section, the following definitions apply:
 - 1) "Affiliate" means any company that controls, is controlled by, or is under common control with a person.
 - 2) "Company" means a corporation, a partnership, an association, a joint stock company, a trust or an unincorporated organization.
 - 3) "Control" means the ability of any person, entity, persons, or entities acting alone or in concert with one or more persons or entities, to own, hold, or direct with power to vote, or to hold proxies representing, 10% or more of the voting shares or rights of a savings bank, savings bank subsidiary, savings bank affiliate, or savings bank holding company^{2,3} or the ability to achieve in any manner the election or appointment of a majority of the directors of a savings bank. This definition shall not apply to the voting of proxies obtained from depositors if the proxies are voted

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as directed by a majority of the board of directors of the savings bank or of a committee of organization directors when the committee's composition and powers may be revoked by a majority vote of the board of directors.

- 4) "Person" means an individual, a company or a group acting in concert.
 - 5) "Associate", when used to indicate relationship with any person, means:
 - A) any corporation or organization (other than the applicant or a wholly owned subsidiary of the applicant) of which thesueh person is an officer or partner or is, directly or indirectly, either alone or together with one or more members of his or her immediate family, the beneficial owner of 10% or more of any class of securities;
 - B) any trust or other estate in which the person has a substantial beneficial interest or as to which thesueh person serves as trustee or in a similar fiduciary capacity;
 - C) any relative or spouse of thesueh person or any relative of thesueh spouse, who has the same home as thesueh person or who is an organizationa director or officer of the savings bank or a related entity; or
 - D) anyone who has an agreement, arrangement, or understanding, with thesueh person, the purpose or effect of which is to enable the person to enter into and consummate any transaction described in subsection (m) on terms more advantageous than had the transaction been entered into or consummated by a person who was not a party to thesueh agreement, arrangement, or understanding.
 - 6) "Savings Bank Holding Company" means any company defined by Section 2001.35 of the Act.
- b) It is unlawful for any person to acquire control of a savings bank or related entity unless acquired pursuant to this Section. Any acquisition of control in violation of this Section shall be ineffective and void.
 - c) Application to acquire control of a savings bank shall be made to the DirectorCommissioner. The application shall be under oath or affirmation, and

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shall contain substantially all the following information, plus any additional information that the ~~Director~~Commissioner may prescribe as necessary or appropriate to protect depositors, borrowers, stockholders, creditors, or the public interest.

- 1) The identity and banking and business experience of each person by whom or on whose behalf the acquisition is to be made, including, but not limited to, his or her business activities and affiliations during the past 10 years, and a description of any pending legal or administrative proceedings in which he or she is a party and any criminal indictment or any conviction of such person by any state or federal court.
- 2) If not entirely described in subsection (c)(1), for each person by whom or on whose behalf the acquisition is to be made, any past (for the past 10 years), present or proposed affiliation with an insured depository institution, including, but not limited to, any past, present or proposed employment and all affiliation or connection of the kind described under the definition of "affiliated person of a savings bank or insured institution" as defined in this Section.
- 3) Financial Statements
 - A) A statement of the assets and liabilities, including contingent liabilities, of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the 5 years immediately preceding the date of the notice, including statements of income, and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and
 - B) ~~An~~ interim statement of the assets and liabilities, including contingent liabilities, for each ~~such~~ person by whom or on whose behalf the acquisition is to be made, including related statements of income, and source and application of funds, as of a date not more than 90 days before the date of the filing of the notice.
- 4) The terms of the proposed acquisition and the manner in which the acquisition is to be made.

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- 5) The identity, source and amount of the funds or other consideration used, or to be used, in making the acquisition. If any part of these funds or other consideration has been or is to be borrowed or otherwise obtained to make the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with those parties such persons.
- 6) Any plans or proposals that which any acquiring party may have to liquidate the bank, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.
- 7) The identity of any person employed, retained, or to be compensated by the acquiring party, or by any person on his or her behalf, to make solicitations or recommendations to stockholders to assist in the acquisition, and a brief description of the terms of thesueh employment, retainer, or arrangement for compensation.
- 8) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.
- 9) In lieu of the application and information required by subsections subsection (c)(1) through (8), the DirectorCommissioner may accept a certified true and accurate copy of notice or application filed with the federal depository institution regulator for the purpose of gaining approval of the proposed change in control or acquisition transaction; provided that the federal application or notice is filed in compliance with the 60 day notice period prescribed by Section 8015 of the Act. Nothing in this subsection (c)(9) precludes the DirectorCommissioner from requiring the applicant to file additional information as permitted by this Section.
- d) When a person, other than an individual or corporation, is required to file an application under this Section, the DirectorCommissioner may require that the information required by subsections (c)(1), (2), (3), and (7) be given with respect to each person, as defined in subsection (a)(3), who has an interest in or controls a person filing an application under this Section subsection.
- e) When a corporation is required to file an application under this Section, the DirectorCommissioner may require that information required by subsections

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(c)(1), (2), (3), and (7) be given for the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of ~~25% percent~~ or more of the outstanding voting securities of the corporation.

- f) If any tender offer, request, or invitation for tenders or other agreements to acquire control is proposed to be made by a registration statement under the Securities Act of 1933 (15 USC 77a et seq.), or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934 (15 USC 78a et seq.), the registration statement or application may be filed with the ~~Director~~Commissioner instead of the requirements of this Section.
- g) Any acquiring party shall deliver a copy of any notice or application required by this Section to the savings bank proposed to be acquired within ~~2~~two days after ~~the~~such notice or application is filed with the ~~Director~~Commissioner.
- h) Any person who willfully or intentionally violates this Section is subject to Section 11006(1) of the Act. Each day's violation shall be considered a separate violation. This subsection in no way limits investigation, examination, prosecution, conviction, levying of fines, or any other legal action or remedy carried out pursuant to any other applicable ~~state~~states or federal law.
- i) The ~~Director~~Commissioner may disapprove the acquisition of a savings bank after the filing of a complete application if:
- 1) The poor financial condition of any acquiring party may adversely affect the financial stability of the savings bank or may adversely affect the interest of depositors, borrowers, creditors, or stockholders;
 - 2) The plan or proposal of the acquiring party to liquidate the savings bank, to sell its assets, to merge it with any person, or to make any other major change in its business, corporate structure, or management may adversely affect the financial stability of the savings bank, is not fair and reasonable to its depositors, borrowers, creditors, or stockholders or is not otherwise in the public interest;
 - 3) Insufficient banking and business experience or a lack of competence or integrity of any acquiring party may adversely affect the savings bank or the savings bank's depositors, borrowers, creditors, or stockholders;
 - 4) The information provided by the application is insufficient for the

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~~Director~~Commissioner to determine whether the acquisition should be approved or the ~~Director~~Commissioner is unable to verify the information provided or to examine the qualifications of the acquiring party; or

5) The acquisition is not otherwise in the public interest.

j) The ~~Director~~Commissioner shall set forth the basis for disapproval of any proposed acquisition in writing and shall provide a copy of the findings and order to the applicants and to the bank involved. The findings and order shall not be disclosed to any other party and shall not be subject to public disclosure unless the findings or order are appealed and subject to hearing.

k) Whenever a change in control occurs, each party to the transaction shall report promptly to the ~~Director~~Commissioner any changes or replacement of its chief executive officer or of any organization director occurring in the next 12 month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officers or organization directors.

l) For a period of 10 years following the acquisition of control by any person, neither the acquiring party nor any associate or affiliate of the acquiring party or the acquired savings bank shall receive any loan or the use of any of the funds of, nor purchase, lease, or otherwise receive any property from, nor receive any consideration from the sale, lease, or any other conveyance of property to, any savings bank in which the acquiring party has control; except that:

1) the provisions of this subsection (l) shall not apply to transactions permitted under ~~sections~~Sections 22(g), 22(h), 23A or 23B of the Federal Reserve Act (12 USC 375a, 375b, 371c and 371c-1), or transactions with any person (including such person's affiliates and associates) after the person ceases to be in control of the savings bank, or ceases to be an affiliate or associate of a person in control of a savings bank; and

2) upon application by any acquiring party or associate or affiliate or affiliated person of a savings bank or insured institution subject to this subsection (l), the ~~Director~~Commissioner may approve a transaction between a savings bank and the acquiring party, person, or associate or affiliate or affiliated person of a savings bank or insured institution, upon finding that the terms of the transaction are at least as advantageous to the savings bank as the savings bank would obtain in a comparable transaction

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with any person that is not an acquiring party or an associate or affiliate of the acquiring party.

- m) To enable any person to purchase any or all shares of its capital stock, no savings bank shall make a loan to, pledge or otherwise transfer any of its assets as security for a loan to such person or to any associate or affiliate or affiliated person of a savings bank or insured institution, or except as otherwise permitted in this subsection, pay any dividends to any such person or associate or affiliate or affiliated person of a savings bank or insured institution except upon a finding by the ~~Director~~Commissioner that such transactions are fair to stockholders, depositors, borrowers, and creditors and does not otherwise violate any provision of the Act. Nothing in this Section shall prohibit a dividend among shareholders in proportion to their shareholdings.
- n) The accuracy and completeness of any information submitted by the applicants may be determined by the ~~Director~~Commissioner pursuant to the ~~Director's~~Commissioner's examination authority.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1710 Anti-Takeover Provisions

- a) With approval of the ~~Director~~Commissioner, a savings bank may amend its articles of incorporation with regard to the acquisition by any person or persons of its equity securities. The savings bank shall file with its application for approval an opinion, acceptable to the ~~Director~~Commissioner, of counsel independent from the savings bank that the proposed ~~amendments~~amendment(s) would be permitted to be adopted by a corporation chartered by Illinois pursuant to the Business Corporation Act of 1983; ~~[(805 ILCS 5]-1.01 et seq.)~~.
- b) No amendments of a savings bank's articles of incorporation pursuant to subsection (a) ~~above~~ may be made or approved by the ~~Director~~Commissioner if the savings bank's capital is below requirements established by the ~~Director~~Commissioner or by federal law or if the savings bank's most recent composite rating (CAMEL) is composite 4 or composite 5. This subsection shall not be construed to grant automatic approval of applications that do not fall within the restrictions of this subsection.
- c) Other than specified in subsections (a) and (b) ~~above~~, a savings bank shall amend its articles of incorporation in accordance with Section 7308-2 of the Act.

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART O: CONVERSION OF MUTUAL SAVINGS BANK
TO CAPITAL STOCK SAVINGS BANK

**Section 1075.1800 Subpart Exclusive – Prohibition on Conversion Without Approval –
Waiver of Requirements**

This Subpart shall exclusively govern the conversion of mutual savings banks to capital stock savings banks. No mutual savings bank may convert to the capital stock form of organization without the prior written approval of the DirectorCommissioner pursuant to this Subpart. Notwithstanding any provision of this Subpart, the DirectorCommissioner may waive a requirement of this Subpart if:

- a) waiverwavier is required by applicable federal law or regulation;
- b) waiver avoids, ameliorates, or corrects a condition enumerated in Section 10001 of the Act or serves a purpose enumerated in Section 10002 of the Act;
- c) waiver is due to unforeseen circumstances thatwhich leave no other reasonable course of action thatwhich complies with the requirement and waiver is not injurious to the converting savings bank and not inequitable to its members; or
- d) waiver permits the converting savings bank to convert to stock form under terms or conditions available to a state or federal savings association or under terms or conditions permitted by the deposit insurance corporation.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1805 Forms

The DirectorCommissioner may prescribe under this Subpart forms for use by a mutual savings bank seeking to convert to a capital stock savings bank pursuant to this Subpart.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1815 Definitions

Terms defined in other Subparts of this Part, when used in this Subpart, shall have the meanings

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given in those definitions, to the extent those definitions are not inconsistent with the definitions contained in this Subpart unless the context otherwise requires. As used in this Subpart, the following definitions apply, unless the context otherwise requires:

"Acting in Concert" means knowing participation in a joint activity or interdependent conscious parallel action toward a common goal whether pursuant to an express agreement, or a combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangement, whether written or otherwise; a person or company ~~that~~ ~~which~~ acts in concert with another person or company ("other party") shall also be considered to be acting in concert with any person or company who is also acting in concert with that other party, except that any employee stock benefit plan as defined in this Section will not be considered to be acting in concert with its trustee or a person who serves in a similar capacity solely to determine whether stock held by the trustee and stock held by the plan will be aggregated.

"Affiliate" means any company that controls, is controlled by, or is under common control with a person.

"Amount", when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares of common or preferred stock, and the number of units if relating to any other kind of security.

"Applicant" is a mutual savings bank ~~that~~ ~~which~~ has applied to convert pursuant to this ~~Subpart~~ ~~chapter~~.

"Broker" means any person engaged in the business of effecting transactions in securities for the account of others.

"Capital Stock" includes permanent stock, guaranty stock, permanent reserve stock, any similar certificate evidencing nonwithdrawable capital, preferred stock, or convertible preferred stock of a savings bank converted under this Subpart or of a subsidiary, institution or holding company.

"Charter" includes articles of incorporation, articles of reincorporation, and certificates of incorporation, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated person.

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~~"Commissioner" means the Commissioner of Banks and Real Estate.~~

"Company" means a corporation, a partnership, an association, a joint stock company, a trust or an unincorporated organization.

"Control" is defined as it is defined in Section 1007.35 of ~~the~~[The](#) Act.

"Dealer" means any person who engages either for all or part of his [or her](#) time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

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

"Deposit Accounts" means any account defined as a deposit account at Section 7001 of ~~the~~[The](#) Act.

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

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

"Eligibility Record Date" means the record date for determining eligible account holders of a converting mutual savings bank.

"Eligible Account Holder" means any person holding a qualifying deposit as determined in accordance with Section 1075.1935.

"Employee" does not include ~~an organization a~~[an organization](#) a director or officer.

"Employee Stock Benefit Plan" means any defined benefit plan or defined contribution plan, such as an employee stock ownership plan, employee stock purchase plan, stock bonus plan, profit-sharing plan or other plan and its related trust.

"Equity Security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

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"Market Maker" means a dealer who, with respect to a particular security:

regularly publishes bona fide, competitive bid and offer quotations in a recognized interdealer quotation system; or furnishes bona fide competitive bid and offer quotations on request; and

is ready, willing, and able to effect a transaction in reasonable quantities at his or her quoted prices with other brokers or dealers.

"Mutual ~~Savings Banks~~savings bank" means a mutual savings bank organized and operating under ~~the~~The Act.

"Offer of ~~Sale~~sale" shall include "offer", "offer to sell", or "offer of sale" and shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. These terms shall not include preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with an applicant.

"Officer", for purposes of the purchase of stock in a conversion under this Subpart or the sale of this stock, means the chairman of the board, president, vice president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other person performing similar functions with respect to any organization, whether incorporated or unincorporated.

"Organization Director" ~~means any person is~~ defined as a director by it is defined in Section 1007.55 of ~~the~~The Act.

"Person" means an individual, a company, or a government or political subdivision ~~thereof~~.

"Principal Underwriter" means an underwriter, as defined in this Section, in privity of contract with the applicant or other issuer of securities as to which that person is the underwriter.

"Proxy" includes every form of authorization by which a person is or may be designated to act for a stockholder in the exercise of his or her voting rights in the affairs of an institution. ~~The~~Such an authorization may take the form of failure to dissent or object.

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"Purchase" ~~orand~~ "Buy" ~~includesinclude~~ every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

"Sale" ~~orand~~ "Sell" ~~includesinclude~~ every contract to sell or otherwise dispose of a security or interest in a security for value; but these terms do not include an exchange of securities in connection with a merger or acquisition approved by the ~~Director~~Commissioner.

"Security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-trust certificate, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase any of the foregoing.

~~A~~"Subsidiary" of a specified person is a company controlled by the person, directly or indirectly through one or more intermediaries.

"Supplemental Eligibility Record Date" means the supplemental record date for determining supplemental eligible account holders of a converting savings bank required by Section 1075.1845. The date shall be the last day of the calendar quarter preceding ~~Director~~Commissioner approval of the application for conversion.

"Supplemental Eligible Account Holder" means any person holding a qualifying deposit, as of the supplemental eligibility record date, excluding officers, ~~organization~~ directors and their associates, except as provided in Section 1075.1845.

"Underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for ~~the~~ applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking; but the term does not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary ~~distributor's~~distributors' or ~~seller's~~sellers' commission.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1820 Prohibition on Approval of Certain Applications for Conversion

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No application for conversion may be approved by the ~~Director~~Commissioner if:

- a) The plan of conversion adopted by the applicant's board of directors is not in accordance with this Subpart;
- b) The conversion reasonably could be expected to result in a reduction of the applicant's capital below requirements established by the ~~Director~~Commissioner and by Federal law;
- c) The conversion may result in a taxable reorganization of the applicant under the United States Internal Revenue Code of 1986 (26 ~~USC U.S.C.~~-1 et seq.), and the ~~Director~~Commissioner upon a written finding determines that the reorganization will endanger the safety and soundness of the converting savings bank;
- d) The converted savings bank does not secure insurance of its deposit accounts backed by the full faith and credit of the United States government before commencing business; or
- e) Where a holding company is contemplated, the holding company will not be either a bank holding company registered with the Federal Reserve Board under the Bank Holding Company Act (12 ~~USCU.S.C. Section~~ 1841 et seq.) or a savings and loan holding company registered with the Office of Thrift Supervision under the Home Owners' Loan Act (12 ~~USC U.S.C. Section~~ 1461 et seq.).

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1835 Stock Purchase Subscription Rights – Eligible Account Holders

- a) Each eligible account holder shall receive, without payment, nontransferable subscription rights to purchase capital stock in an amount ranging from ~~.1%one-tenth of one percent~~ to ~~5%five percent~~ of the total offering, with each receiving subscription rights to the same percentage of capital stock~~s~~; or in an amount that reflects a proportioned amount that is based on the amount of the eligible account holder's qualifying deposit relative to the total amount of qualifying deposits. The allocation of subscription rights to purchase shares of capital stock under this subsection shall not give the ~~organization~~ directors in the aggregate subscriptions equal to more than ~~20-20%percent~~ of the total offering.

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- b) When a conversion plan is effected pursuant to Section 1075.2170, the total number of shares refers to that number of shares not sold to the acquiror or acquirors designated in the plan.
- c) Allotment
- 1) If the allotment made in this Section results in an oversubscription, the plan of conversion may provide that shares be allocated first to organization directors, officers and employees who have been account holders for the entire 5 years before the conversion. However, the DirectorCommissioner may waive the 5five- year requirement for an individual upon a written finding that the individual who has not been a 5five- year account holder participated in and greatly contributed to rehabilitating the savings bank or that the waiver is necessary to maintain the savings bank's independent ownership. Any shares not allocated to thesueh organization directors, officers and employees shall be allocated among other subscribing eligible account holders on ansueh equitable basis, related to the amounts of their qualifying deposits, as may be provided in the plan of conversion.
- 2) For the purposes of shares allocated pursuant to subsection (c)(1)the immediately preceding sentence, organization directors may be allocated additional shares in the same manner as other eligible account holders.
- d) If the allotment in this Section results in an undersubscription, the plan of conversion may provide that the directors, officers and employees of the savings bank who are eligible account holders receive, without payment, nontransferable subscription rights to purchase unallocated shares of capital stock. The subscription rights shall be allocated among organization directors, officers and employees on an equitable basis such as by giving weight to period of service, compensation, or position.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1840 Stock Purchase Subscription Rights – Received by Officers, Organization Directors, and their Associates – Subordination

Nontransferable subscription rights to purchase capital stock received by officers and organization directors and affiliated persons of the converting savings bank based on their increased deposits in the converting savings bank in the one-year period preceding the eligibility

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record date shall be subordinated to all other subscriptions involving the exercise of nontransferable subscription rights to purchase shares pursuant to Section 1075.1835.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1845 Supplemental Share Purchase Subscription Rights – Supplemental Eligible Account Holder – Conditions

- a) In plans with an eligibility record date that is more than 15 months before the date of the latest amendment to the application for conversion filed before the ~~Director's~~ ~~Commissioner's~~ approval, a supplemental eligibility record date shall be determined ~~in which~~ ~~whereby~~ each supplemental eligible account holder of the converting savings bank shall receive, without payment, nontransferable subscription rights to purchase shares in an amount ranging from ~~.1%~~ ~~one-tenth of one percent~~ to ~~5%~~ ~~five percent~~ of the total offering, with each receiving subscription rights to the same percentage of capital stock, or in an amount that is based on a proportioned amount that is based on the amount of the eligible account holder's qualifying deposit relative to the total amount of qualifying deposits in the converting savings bank on the supplemental eligibility record date. When a conversion plan is effected pursuant to Section 1075.2170, the total number of shares refers to that number of shares not sold to the acquiror or acquirors designated in the plan.
- b) Subscription rights received pursuant to this Section shall be subordinated to all rights received by eligible account holders to purchase shares pursuant to Sections 1075.1835 and 1075.1840.
- c) Any nontransferable subscription rights to purchase shares received by an eligible account holder in accordance with Sections 1075.1835 and 1075.1840 shall be applied in partial satisfaction of the subscription rights to be distributed pursuant to this Section.
- d) In the event of an oversubscription for supplemental shares pursuant to this Section, shares shall be allocated among the subscribing supplemental eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits, as may be provided in the plan of conversion.
- e) An organization ~~A~~ director or officer of the converting savings bank shall be entitled to subscription rights as a supplemental eligible account holder only if:

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- 1) [thesueh](#) person is not also an eligible account holder entitled to subscription rights under Section 1075.1835; and
- 2) [thesueh](#) person became a director or officer of the converting savings bank after the eligibility record date established under Section 1075.1875.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1855 Sale of Shares Not Sold in Subscription Offering – Methods – Conditions

Any shares of the converting savings bank not sold in the subscription offering shall either be sold in a public offering through an underwriter or directly by the converting savings bank in a direct community marketing, subject to the applicant demonstrating to the [DirectorCommissioner](#) the feasibility of the method of sale and to such conditions as may be provided in the plan of conversion. The conditions shall include, but not be limited to, the following.

- a) A condition that any direct community offering by the converting savings bank shall give a preference to natural persons residing in the counties in which the savings bank has an office. The methods by which preference shall be given shall be approved by the [DirectorCommissioner](#).
- b) A condition requiring the stock to be offered and sold in the public offering or the direct community offering, to be offered and sold in a manner that will achieve the widest distribution of the stock.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1860 Uniform Sales Price of Shares Required – Application to Specify Arrangements on Sale of Shares Not Sold in Subscription Offering

- a) The sales price of the shares of capital stock to be sold in the conversion shall be a uniform price determined in accordance with Sections 1075.2055, 1075.2070, and 1075.2090. The applicant shall specify in its conversion application the underwriting and other marketing arrangements to be made to assure the sale of all shares not sold in the subscription offering.
- b) In a conversion of a mutual savings bank that is in the process of acquisition by a depository institution holding company or in the process of merger or

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consolidation with a depository institution, the pricing requirements of subsection (a) ~~above~~ may be waived by the DirectorCommissioner with respect to sales of shares of capital stock during the subscription offering to persons entitled to subscription rights under Sections 1075.1835, 1075.1845, 1075.1850, 1075.1910 and 1075.1925(b) and (c) ~~of this Subpart~~. Waiver shall be granted only upon a written finding by the DirectorCommissioner that the provision is not inequitable to members and would not injure the converting savings bank and, in the case of a waiver for sales to employee stock benefit plans or management recognition plans under Section 1075.1910, only if employees of the converting savings bank are, or upon consummation of the acquisition, merger or consolidation, will be, eligible to participate ~~in those plans therein~~. The finding of the DirectorCommissioner shall include grounds as to why the provision is not inequitable or injurious.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1865 Savings Account Holder to Receive Withdrawable Savings
AccountsAccount(s) – Amount

Each deposit account holder of the converting savings bank shall receive, without payment, a deposit account or accounts in the converted savings bank equal in amount, rate of return and general terms, to the withdrawable account holder's deposit account or accounts in the pre-conversion mutual savings bank.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1885 Amendment and Termination of Plan of Conversion

The plan of conversion adopted by the applicant's board of directors may be amended or withdrawn by the board of directors at any time before final approval of the DirectorCommissioner and solicitation of proxies from the applicant's members to vote on the plan, provided that no such amendment or withdrawal shall be effective unless the DirectorCommissioner is notified of the amendment or withdrawal and the DirectorCommissioner acknowledges receipt of notification. The plan of conversion adopted by the applicant's board of directors may be amended or withdrawn by the board of directors after final approval of the DirectorCommissioner and solicitation of proxies from the applicant's members to vote on the plan only with the approval of the DirectorCommissioner.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

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Section 1075.1890 Restriction on Sale of Shares of Stock by Organization Directors and Officers

- a) All shares of capital stock purchased by organization directors on original issue in the conversion either directly from the savings bank (by subscription or otherwise) or from an underwriter of the shares shall be subject to the restriction that the shares shall not be sold for a period ranging from one year to 5five years following the date of purchase, except in the event of death of the organization director. Within the one-to-5five year range, the length of the restriction shall be determined by the savings bank.
- b) Notwithstanding the sales restriction of subsection (a) ~~above~~, after an organization ~~a~~ director has owned such capital stock purchased on original issuance for a period of not less than one year from the date of purchase, an a-organization director may request the Director's Commissioner's permission to sell the stock. The Director Commissioner may grant permission to sell the stock upon a written finding that:
- 1) the sale would substantially contribute to averting otherwise unavoidable injury to the savings bank; or
 - 2) due to a change in the organization director's financial or personal circumstances that was unforeseen at the time of purchase of the stock, disallowing the sale would result in substantial, imminent and otherwise unavoidable hardship.
- c) All shares of capital stock purchased by officers on original issue in the conversion either directly from the savings bank (by subscription or otherwise) or from an underwriter of the shares shall be subject to the restriction that the shares shall not be sold for a period of not less than one year following the date of purchase, except in the event of death of the officer.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1900 Registration of Securities – Marketing of Securities – Listing of Shares on Securities Exchange or NASDAQ Quotation System

A converted savings bank or savings bank holding company shall:

- a) promptly register securities issued in its conversion pursuant to the Securities and

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Exchange Act of 1934 (15 ~~USC U.S.C.~~ 78a et seq.) and undertake not to deregister the securities for a period of ~~3~~three years thereafter;

- b) use its best efforts to encourage and assist a market maker to establish and maintain a market for the securities issued in connection with the conversion; and
- c) use its best efforts to list those shares issued in connection with the conversion on a national or regional securities exchange or on the National Association of Securities Dealers Automated Quotations ("~~N~~ASDAQ") system.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1910 Employee Stock Benefit Plan – Priority.

- a) Employee stock benefit plans in the aggregate have priority to purchase up to 15 percent of the total offering of shares of capital stock before eligible and supplemental eligible account holders and voting members who have subscription rights.
- b) In addition to the subscription rights of employee stock benefit plans under subsection (a) ~~above~~, management recognition plans and benefit income plans in the aggregate have priority to purchase up to ~~5% percent~~ of the total offering of shares of capital stock before eligible and supplemental eligible account holders and voting members who have subscription rights.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1915 Employee Stock Benefit Plan – Contributions

Scheduled discretionary contributions to ~~an a~~ employee stock benefit plan may be made if the contributions do not cause the savings bank to fail to meet capital requirements established by the ~~Director~~Commissioner or by federal law.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1920 Plan of Conversion – Prohibited Provisions

- a) The plan of conversion shall contain no provision ~~that~~which the ~~Director~~Commissioner determines to be inequitable or detrimental to the applicant, its account holders, or other savings banks or to be contrary to the

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public interest.

- b) Except for loans to eligible account holders and supplemental eligible account holders that are fully secured by certificates of deposit with the converting savings bank of thesueh account holders, the plan of conversion shall contain no provision thatwhich permits or requires the applicant to extend credit of any kind in any way or to distribute assets of any kind in any way to any person or entity to purchase the applicant's capital stock before or during the conversion.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1925 Optional Provisions in Plan of Conversion

The plan of conversion may provide any or all the following:

- a) That the converting savings bank may begin the direct community offering or the public offering, or both, concurrently with or at any time during the subscription offering. The subscription offering may begin concurrently with or at any time after the mailing to savings bank members, pursuant to Section 1075.2040(b), of the proxy statement authorized for use by the DirectorCommissioner. The subscription offering may be closed before the meeting of the savings bank members held to vote on the plan of conversion only if the offer and the sale of the capital stock shall be conditioned upon the approval of the plan of conversion by the savings bank members as provided in Section 1075.2040.
- b) That the directors, officers and employees of the converting savings bank shall receive, without payment, non-transferable subscription rights to purchase shares of capital stock that are available after satisfying the subscriptions provided for under Sections 1075.1835, 1075.1845, 1075.1855 and 1075.1910, subject to such conditions as may be provided in the plan of conversion. In the event of an oversubscription by organization directors, officers and employees, the shares available shall be allocated among the subscribing organization directors, officers and employees on an equitable basis, such as by giving weight to period of service, compensation or position.
- c) That any account holder receiving rights to purchase stock in the subscription offering shall also receive, without payment, non-transferable subscription rights to purchase up to 1%one percent of the total offering of shares of capital stock, to the extent that thesueh shares are available after satisfying the subscriptions provided for under subsection (b) above and Sections 1075.1835, 1075.1845,

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1075.1850 and 1075.1910, subject to such conditions as may be provided in the plan of conversion. In the event of an ~~oversubscription~~~~over-subscription~~ for ~~such~~ additional shares, the shares available shall be allocated among the subscribing eligible account holders, supplemental eligible account holders and voting members on ~~such~~ equitable basis, related to the amounts of their respective subscriptions, as may be provided in the plan of conversion.

- d) That the converting savings bank may require savings bank members to return by a reasonable date certain a postage-paid written communication provided by the converting savings bank requesting receipt of a subscription offering circular, or a preliminary or final offering circular in an offering pursuant to subsection (h) ~~below~~, in order to be entitled to receive an offering circular from the converting savings bank. The subscription offering or the offering pursuant to subsection (h) ~~below~~ shall not be closed until the expiration of 30 days after the mailing by the converting savings bank to bank members of the postage-paid written communication. If the subscription offering or the offering pursuant to subsection (h) ~~below~~ is not started within 45 days after the meeting of savings bank members, the converting savings bank that has adopted this optional provision shall transmit no more than 30 days before the start of the subscription offering or the offering pursuant to subsection (h) ~~below~~ to each savings bank member who has been furnished with proxy soliciting materials, written notice of the start of the offering, which notice shall state that the converting savings bank is not required to furnish an offering circular to a savings bank member unless the savings bank member returns by a reasonable date certain the postage-paid written communication provided by the converting savings bank requesting receipt of an offering circular.
- e) That the converting savings bank may require eligible account holders and supplemental eligible account holders who are not voting members to return by a reasonable date certain a postage-paid written communication provided by the converting savings bank requesting the receipt of a subscription offering circular, or a preliminary or final offering circular in an offering pursuant to subsection (i) ~~below~~, in order to be entitled to receive an offering circular from the converting savings bank. The subscription offering or the offering pursuant to subsection (i) ~~below~~ shall not be closed until the expiration of 30 days after the mailing by the converting savings bank to the non-voting eligible account holders and supplemental eligible account holders of the postage-paid written communication. If the subscription offering or the offering pursuant to subsection (i) ~~below~~ is not started within 45 days after the meeting of savings bank members, the converting savings bank that has adopted this optional provision shall transmit no more than

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30 days before the start of the subscription offering or the offering pursuant to subsection (i) ~~below~~ written notice of the start of the offering, which notice shall state that the converting savings bank is not required to furnish an offering circular to a non-voting eligible account holder or supplemental eligible account holder unless the eligible account holder or supplemental eligible account holder returns by a reasonable date certain the ~~postage-paid~~~~post-paid~~ written communications provided by the converting savings bank requesting receipt of an offering circular.

- f) That any shares of the converting savings bank not sold in the subscription offering or in a public offering referred to in Section 1075.1855 may be sold in ~~another~~~~such other~~ manner ~~as~~ provided in the plan with the ~~Director's~~ ~~Commissioner's~~ approval.
- g) That the converted savings bank shall issue and sell, instead of shares of its capital stock, units of securities consisting of capital stock and warrants or other equity securities, in which event any reference in this Subpart to capital stock shall apply to ~~the~~~~such~~ units of equity securities unless the context otherwise requires.
- h) That, instead of a separate subscription offering, all subscription rights issued in connection with the conversion shall be exercisable by delivery of properly completed and executed order form to the underwriters or selling group for the public offering or pursuant to any other procedure, subject to the applicant demonstrating to the ~~Director~~~~Commissioner~~ the feasibility of the method of exercising ~~those~~~~such~~ rights and to ~~such~~ conditions ~~as shall be~~ provided in the plan of conversion. ~~The~~~~Such~~ conditions shall include, but not be limited to, ~~a condition~~ requiring that orders for stock in the public offering or direct community offering shall first be filled, in the order of priority set forth in this Subpart by orders of persons exercising subscription rights.
- i) Any person exercising subscription rights to purchase capital stock may be required to purchase a minimum number of shares to the extent the shares are available, but the aggregate price for any minimum share purchase requirement shall not exceed ~~\$500~~~~five hundred dollars~~.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1930 Approval of Other Provisions

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The Director~~Commissioner~~ may approve other provisions upon a written finding that the provision is not inequitable to members and will not injure the converting savings bank. The written findings shall include grounds as to why the provision is not inequitable or injurious.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1965 Converted Savings Bank Prohibited from Repurchasing its Stock Without Approval

A converted savings bank shall not, for a period of one year from the date of the completion of the conversion, repurchase any of its capital stock, except that capital stock repurchases of no greater than 5% of the capital stock issued in the conversion may be repurchased during this one-year period if the Director~~Commissioner~~ finds that:

- a) the repurchase would not adversely affect the financial condition of the savings bank;
- b) the repurchase would not reduce the savings bank's capital below requirements established by the Director~~Commissioner~~ or federal law;
- c) the repurchase would be equitable to shareholders;
- d) the repurchase would be undertaken for legitimate business reason; and
- e) the information submitted by the savings bank is sufficient upon which to base the findings required by this Section.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1970 Limitation on Cash Dividends

No converted savings bank may declare or pay a cash dividend on, or repurchase any of, its capital stock unless the declaration or payment repurchase dividend or repurchase would be in accordance with the requirements of Section 5001(c) of the Act and would not reduce the capital of the converted savings bank below the greatest of:

- a) the amount required for the liquidation account;
- b) the amount required by the Director~~Commissioner~~; or

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- c) the amount required by federal law.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1975 Dividends on Preferred Stock

A converted mutual savings bank may pay dividends on preferred stock at the rate or rates agreed in connection with the issuance of preferred stock, if such issuance has been approved by the ~~Director~~ Commissioner. However, the ~~Director~~ Commissioner shall approve no issuance or payment that would reduce the capital of the converted savings bank below the greatest of:

- a) the amount required for the liquidation account,
- b) the amount required by the ~~Director~~ Commissioner, or
- c) the amount required by federal law.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1980 Prohibitions on Offer, Sale, or Purchase of Securities

- a) In the offer, sale, or purchase of securities issued incident to its conversion, no savings bank or any organization director, officer, attorney, agent, or employee thereof may:
- 1) employ any device, scheme or artifice to defraud;
 - 2) obtain money or property by any untrue statement of a material fact or any omission to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; or
 - 3) engage in any act, transaction, practice, or course of business ~~that~~ which operates or would operate as a fraud or deceit upon a purchaser or seller.
- b) In addition, any act that the U.S. Securities Exchange Commission finds violates ~~section~~ Section 10 of the Securities Exchange Act of 1934 (15 U.S.C. 78j) or Rule 10b-5, as promulgated by the U.S. Securities Exchange Act of 1934 (17 CFR 240.10b-5) shall be considered a violation of this Section. A violation found by the Securities Exchange Commission includes, regardless of pending of appeal,

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any violation found by the Commission, any violation admitted within a plea agreement or in a plea of nolo contendere, any violation proved or admitted with respect to an unindicted co-conspirator, any conviction for violation of the Securities Exchange Act of 1934 (15 ~~USC U.S.C.~~ 78j) or Rule (17 CFR 240.10b-5), as promulgated by the U.S. Securities Exchange Commission, and any violation found by any body of competent jurisdiction of the Securities Exchange Act of 1934 (15 ~~USC U.S.C.~~ 78); or Rule (17 CFR 240.10b-5), as promulgated by the U.S. Securities Exchange Commission.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1990 Articles of Incorporation – Restrictions Permitted

- a) A converting savings bank's articles of incorporation may include the following provision:
- 1) Certain Provisions Applicable for ~~5~~Five Years. Notwithstanding anything contained in the savings bank's charter article, articles of incorporation, or bylaws to the contrary, for a period of ~~(f~~specify number of years up to ~~5)five~~ years from the date of completion of the conversion of the ~~savings~~Savings bank from mutual to stock form, the following provisions shall apply:
 - A) Beneficial Ownership Limitation. Except for sales of stock required by the federal insurer of accounts or the ~~Director Commissioner of Banks and Real Estate~~, no person shall directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10%~~percent~~ of any class of an equity security of the savings bank. This limitation shall not apply to a transaction in which the savings bank forms a holding company without change in the respective beneficial ownership interests of its stockholders other than pursuant to the exercise of any dissenter and appraisal rights, the purchase of shares by underwriters in connection with a public offering, or the purchase of shares by a employee stock benefit plan. In the event shares are acquired in violation of this Section, all shares beneficially owned by any person in excess of 10% shall be considered "excess shares" and shall not be counted as shares entitled to vote and shall not be voted by any person or counted as voting shares in connection with any matters submitted to the stockholders for a vote. For purposes of this provision, the

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following definitions apply: the term "person" includes an individual, a group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization or similar company, a syndicate or any other group formed to acquire, hold or dispose of the equity securities of the savings bank; the term "offer" includes every offer to buy or otherwise acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of, a security or interest in a security for value; the term "acquire" includes every type of acquisition, whether effected by purchase, exchange, operation of law or otherwise; and the term "acting in concert" means knowing participation in a joint activity or conscious parallel action towards a common goal whether pursuant to an express agreement, or a combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangements, whether written or otherwise.

- B) Cumulative Voting Limitation. Stockholders shall not be permitted to cumulate their votes for election of organization directors.
 - C) Call for Special Meetings. Special meetings of stockholders relating to changes in control of the association or amendments to its charter shall be called only upon direction of the board of directors.
- 2) If the savings bank chooses to include the provisions allowed pursuant to this subsection (a), the language in subsection (a)(1) ~~above~~ constitutes the exact language that shall be used in the savings bank's articles of incorporation, except that in the subsection (a)(1) ~~above~~, a number of years, up to 5 years, shall be substituted for the language, "~~{specify number of years up to 5}five~~".
- b) There may also be included in the articles of incorporation any provision that could be approved as an amendment pursuant to Section 1075.1710. Such provisions must be approved by the DirectorCommissioner. Application for such approval must include independent counsel's opinion that the proposed provision would be permitted to be adopted in a corporation chartered by Illinois pursuant to the Business Corporation Act of 1983.

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.1995 Confidentiality of Consideration to Convert – Remedial Measures for Breach

A savings bank ~~that~~~~which~~ is considering converting pursuant to this Subpart and its organization directors, officers, and employees shall keep this consideration in the strictest confidence and shall only discuss the potential conversion as would be consistent with the need to prepare information for filing an application for conversion. Should this confidence be breached, the Director~~Commissioner~~ may require remedial measures including:

- a) a public statement by the savings bank that its board of directors is currently considering converting pursuant to this Subpart;
- b) providing for an eligibility record date ~~that~~~~which~~ shall be ~~as of such~~ a date before the adoption of the plan by the converting savings bank's board of directors as to assure that the conversion is equitable;
- c) limitation of the subscription rights of any person violating or aiding the violation of this Section; and
- d) any other actions the Director ~~Commissioner~~ may consider appropriate and necessary to assure the fairness and equitability of the conversion.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2005 Adoption of Plan of Conversion – Notice to and Inspection by Account Holders – Statement and Letter – Press Release Authorized

- a) Promptly after the adoption of a plan of conversion by not less than two-thirds of its board of directors, the savings bank shall:
 - 1) Notify, its account holders of the action by publishing a statement in a newspaper having general circulation in each community in which an office of the savings bank is located or by mailing a letter to each of its account holders; and
 - 2) Have copies of the adopted plan of conversion available for inspection by its account holders at each office of the savings bank.

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- b) The savings bank may also issue a press release with respect to the action. Copies of the proposed statement, letter, and press release are not required to be filed with the Director Commissioner but may be submitted to the Director Commissioner for comment. Copies of the definitive statement, letter, and press release shall be filed with the Director Commissioner as part of the application for conversion.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2010 Statement, Letter and Press Release – Content Permitted

The statement, letter, and press release of the applicant issued pursuant to Section 1075.2005, unless otherwise authorized by the Director Commissioner, shall contain only (but need not contain all of) the following:

- a) A statement that the board of directors has adopted a plan to convert the savings bank from a mutual savings bank to a capital stock savings bank;
- b) A statement that the plan of conversion is subject to approval by the Director Commissioner and by the appropriate federal regulatory authority or authorities (naming such an authority or authorities) before the plan can become effective and that account holders of the applicant will have an opportunity to file written comments including objections and materials supporting the objections with the Director Commissioner;
- c) A statement that the plan of conversion is contingent upon obtaining favorable tax rulings from the Internal Revenue Service or an appropriate tax opinion;
- d) A statement that there is no assurance that the approval of the Director Commissioner or the approval of any appropriate federal authority or authorities will be obtained, and also no assurance that the favorable tax rulings or tax opinion will be received;
- e) The proposed record date for determining the eligible account holders entitled to receive nontransferable subscription rights to purchase capital stock of the applicant;
- f) A brief statement describing the circumstances that would require supplemental eligible account holders to receive nontransferable subscription rights to purchase capital stock of the applicant;

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- g) A brief description of the plan of conversion;
- h) The par value and approximate number of shares of capital stock to be issued and sold under the plan of conversion;
- i) A brief statement as to the extent to which organization directors, officers, and employees will participate in the conversion;
- j) A statement that savings account holders will continue to hold accounts in the converted savings bank identical as to dollar amount, rate of return, and general terms and that their accounts will continue to be insured by the Federal Deposit Insurance Corporation;
- k) A statement that borrowers' loans will be unaffected by conversion and that the amount, rate, maturity, security, and other conditions will remain contractually fixed as they existed before conversion;
- l) A statement that the normal business of the savings bank in accepting savings and making loans will continue without interruption; that the converted savings bank will continue after conversion to conduct its present services to savings account holders and borrowers under current policies to be carried on in existing offices and by the present management and staff;
- m) A statement that the plan of conversion may be substantively amended or ended by the board of directors with the concurrence of the DirectorCommissioner; and
- n) A statement that questions of account holders may be answered by telephoning or writing to the savings bank.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2020 Notices of Filing of Application – Requests for Subscription Offering Circular

- a) Upon determination that an application for conversion is properly executed and is not materially incomplete, the DirectorCommissioner shall advise the applicant, in writing, to publish notices of the filing of the application. Promptly after receipt of the advice, the applicant shall prominently post the notice in each of its offices and publish a notice of the filing in a newspaper printed in the English

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language and having general circulation in each community in which an office of the applicant is located.

- b) The first notice shall be entitled: "Notice of Filing of an Application for Approval to Convert to a Stock Savings Bank".

- c) The first paragraph under the title shall read as follows:

"Notice is hereby given that, pursuant to 38 Ill. Adm. Code 1075.2020, (fill in name of applicant), has filed an application with the Director of Banking~~Commissioner of Banks and Real Estate~~ for approval to convert to the stock form of organization. Copies of the application have been delivered to the Division of Banking~~Office of Banks and Real Estate~~ in Chicago and Springfield, Illinois."

- d) The second paragraph under the title shall read as follows:

"Written comments, including objections to the plan of conversion and materials supporting the objections, from any account holder of the applicant or aggrieved person, will be considered by the Director~~Commissioner~~ if filed within 20~~twenty~~ business days after the date of this notice. Failure to make written comments in objection may preclude the pursuit of any administrative or judicial remedies. Three copies of the comments should be sent to the aforementioned. The proposed plan of conversion and any comments thereon will be available for inspection by any account holder of the applicant at the Division of Banking~~Office of Banks and Real Estate~~ in Chicago and Springfield, Illinois. A copy of the plan may also be inspected at each office of the applicant.

- e) If a significant number of the applicant's account holders speak a language other than English and a newspaper in that language is published in the area served by the applicant, an appropriate translation of the notice shall also be published in that newspaper. A copy of the notice may be sent by mail to the converting savings bank's depositors with a statement that the converting institution will not mail a subscription offering circular to an eligible account holder or a supplemental eligible account holder unless the eligible account holder or the supplemental eligible account holder, before the beginning of the subscription offering, requests the subscription offering circular by returning a postcard. The issuer of stock in the conversion shall pay the postage of this postcard and shall

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inform the eligible account holder or supplemental eligible holder that the postage is paid.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2025 Filing of Notice and Affidavit of Publication Required

Promptly after publication of the notices prescribed in Section 1075.2020 in this Part, the applicant shall file with the Director ~~Commissioner~~ the notice and affidavit of publication from each newspaper publisher in the manner the Director~~Commissioner~~ shall require.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2035 Solicitation of Proxies; Proxy Statements

- a) Solicitations to which this Section applies – this Section applies to every solicitation of a proxy from a member of a savings bank for the meeting at which a plan of conversion will be voted upon, except the following:
 - 1) any solicitation made otherwise than on behalf of the management of the savings bank where the total number of persons solicited is not more than 50;
 - 2) any solicitation through the medium of a newspaper advertisement which informs members, following approval of the plan of conversion, of a source from which they may obtain copies of a proxy statement, form of proxy, or any other solicitation material and does no more than:
 - A) name the savings bank,
 - B) state the reason for the advertisement,
 - C) identify the proposal or proposals to be acted upon by members, and
 - D) urge members to vote at the meeting.
- b) Use of Proxy Soliciting Material To Be Authorized – no proxy solicitation material required to be filed with the Director ~~Commissioner~~ before use shall be furnished to members or otherwise released for distribution until the use of

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~~that~~ such material has been authorized in writing by the ~~Director~~ Commissioner. Proxy material authorized for use by the ~~Director~~ Commissioner shall be mailed to the members within 10 days ~~after~~ of such authorization unless extended by the ~~Director~~ Commissioner in writing upon a showing that adherence to the ~~10~~ day rule would work a hardship upon the savings bank and that the delay, if approved, would not be disadvantageous to any interested party.

- c) Information To Be Furnished Members – no solicitation shall be made unless each person solicited is concurrently furnished, or has previously been furnished, a written proxy statement the use of which has been authorized in writing by the ~~Director~~ Commissioner.
- d) Requirements As To Proxy:
- 1) The form of proxy shall:
 - A) indicate in bold face type whether the proxy is solicited on behalf of management;
 - B) provide specifically designated blank spaces for dating and signing the proxy;
 - C) identify clearly and impartially each matter or group of related matters intended to be acted upon;
 - D) be clearly labeled "Revocable Proxy" in bold face type of at least 18 point;
 - E) describe any charter or state law requirement restricting or conditioning voting by proxy;
 - F) contain an acknowledgement by the person giving the proxy that the person has received a proxy statement before signing the form of proxy;
 - G) contain the date, time, and place of meeting, if practicable;
 - H) provide, by a box or otherwise, a means whereby the person solicited is afforded an opportunity to specify by ballot a choice between approval or disapproval of each matter intended to be

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acted upon; and

- I) indicate in bold face type how the proxy shall be voted on each such matter if no choice is specified.
 - 2) No proxy obtained pursuant to the conversion shall confer authority to vote at any meeting other than the meeting, or any adjournment of the meeting thereof, to vote on the plan of conversion. A proxy may be considered to confer authority to vote with respect to matters incident to the conduct of thesueh meeting. If the plan of conversion is considered at an annual meeting, existing proxies may be voted with respect to matters not related to the plan of conversion or in accordance with subsection (d)(4)below.
 - 3) The proxy statement or form of proxy shall provide that the votes represented by the proxy will be voted. Where the person solicited specifies by a ballot provided pursuant to subsection (d)(1)(H) above a choice with respect to any matter to be acted upon, the votes will be voted in accordance with the specifications. If no choice is specified, the votes will be cast as indicated in bold face type on the form of proxy.
 - 4) Notwithstanding any other provisions of this subsection, the proxy may be in a form previously obtained from a voting member and conferring general authority to vote on all matters at any meeting of the members or other authority to vote on matters to be presented at the special meeting if the voting member has been furnished a proxy statement conforming with Sections 1075.2300 through 1075.2460 and has been notified that a previously obtained proxy will be exercised if the voting member does not grant a later-dated proxy to vote at the meeting to consider the plan of conversion or attend the meeting and vote in person.
- e) Material Required To Be Filed:
- 1) Applicants shall file a preliminary copy of the proxy materials required by Sections 1075.2300 through 1075.2460.
 - 2) A preliminary copy of any additional solicitation material including press release and radio or television scripts, to be used or furnished to members subsequent to furnishing the proxy statement, shall be filed with the DirectorCommissioner at least 5 business days before the date on which

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the ~~Director~~Commissioner is requested to authorize the use of ~~the~~such material. Speeches may, but need not, be filed with the Commissioner before use.

- 3) A copy of the proxy statement and a copy of the form of proxy and all other solicitation material, in the form in which ~~the~~such material is furnished to members, shall be filed with or mailed for filing to the ~~Director~~Commissioner not later than the date ~~the~~such material is first sent or given to members. All materials filed pursuant to this subsection ~~(e)~~(3) shall be with a statement of the date on which copies of ~~the~~such materials are to be released to members.
- 4) If the solicitation is to be made in whole or in part by personal solicitation, a preliminary copy of all written instructions or other material ~~that~~which discusses or reviews, or comments upon the merits of, any matter to be acted upon and ~~that~~which is to be furnished to the individuals making the actual solicitation for their use directly or indirectly in connection with the solicitation shall be filed with the ~~Director~~Commissioner at least 5 business days before the date on which the ~~Director~~Commissioner is requested to authorize the use of ~~the~~such material.
- 5) All preliminary copies of material filed pursuant to subsections ~~(e)~~(1), ~~(2)~~(2), and ~~(4)~~above shall be clearly marked on the cover page "Preliminary Copy-". ~~The~~Such preliminary copies shall be for the information of the ~~Director~~Commissioner only and shall not be available for public inspection except that ~~the~~such material may be disclosed to any department or agency of the United States, this State, or any other state, that has concurrent jurisdiction over the applicant. The ~~Director~~Commissioner may make ~~such~~ inquiries or ~~investigations~~investigation in regard to the material as may be necessary for an adequate review.
- 6) Unless requested by the ~~Director~~Commissioner, copies of replies to inquiries from members and copies of communications ~~that~~which do no more than request that forms of proxy ~~previously~~theretofore solicited be signed and returned need not be filed pursuant to this subsection ~~(e)~~.
- 7) ~~When~~Where any proxy statement, form of proxy or other material filed pursuant to this subsection ~~(e)~~ is amended or revised, a copy of ~~the~~such amended or revised material filed with the ~~Director~~Commissioner shall be

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marked to indicate clearly and precisely the changes effected subsequent to the previous filing.

- f) Mailing Communications ~~for~~ Member – ~~If~~ the applicant has adopted a plan of conversion, the applicant shall perform such of the following acts as may be duly requested in writing with respect to a matter to be considered at the meeting to vote on the plan of conversion by any member who will defray the reasonable expenses to be incurred by the applicant in the performance of the act or acts requested:
- 1) The applicant shall mail or otherwise furnish to ~~the~~ such member the following information as promptly as practicable after the receipt of ~~the~~ such request:
 - A) a statement of the approximate number of members who have been or are to be solicited on behalf of management, or any group of members ~~which~~ the member shall designate;
 - B) an estimate of the cost of mailing a specified proxy statement, form of proxy, or the communication to ~~the~~ such members.
 - 2) Copies of any proxy statement, form of proxy, or other communication furnished by the member and as approved by the ~~Director~~ Commissioner shall be mailed by the applicant to ~~any~~ such of the members specified in subsection (f)(1)(A) ~~above~~ as the member may designate.
 - 3) Any ~~such~~ material ~~that~~ which is furnished by the member shall be mailed with reasonable promptness by the applicant after receipt of the material to be mailed, including envelopes or other containers, and the appropriate postage or payment for postage.
 - 4) Neither management nor the applicant shall be responsible for ~~the~~ such proxy statement, form of proxy, or other communication.
- g) False ~~and~~ ~~And~~ Misleading Statements:
- 1) No solicitation of a proxy by the applicant, its management, or any other person for the meeting to vote on the plan of conversion shall be made by any proxy statement, form of proxy, notice of meeting, or other communication, written or oral, containing any statement ~~that~~ which, at the

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time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or ~~that~~~~which~~ omits any material fact necessary in order to make the statements in the communication~~therein~~ not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the meeting ~~that~~~~which~~ has become false or misleading.

- 2) The fact that a proxy statement, form of proxy, or other solicitation material has been filed with or examined by the ~~Director~~Commissioner and authorized for use shall not be considered a finding by the ~~Director~~Commissioner that ~~the~~~~such~~ material is accurate or complete or not false or misleading, or that the ~~Director~~Commissioner has passed upon the merits of or approved any proposal contained in the material~~therein~~. No representation to the contrary shall be made by any person.
- 3) If a solicitation by management violates any provision of this Section, the ~~Director~~Commissioner may require remedial measures including:
 - A) correction of any ~~such~~-violation by a retraction and new solicitation~~;~~;
 - B) rescheduling of the meeting for a vote on the plan of conversion~~;~~ and
 - C) any other actions the ~~Director~~Commissioner finds appropriate under the circumstances in order to ensure a fair vote.
- h) Prohibition ~~of~~Of Certain Solicitations – ~~None~~ person soliciting a proxy from a member for the meeting to vote on the plan of conversion shall solicit:
 - 1) any undated or post-dated proxy; or
 - 2) any proxy ~~that~~~~which~~ provides that it shall be dated as of any date subsequent to the date on which it is signed by the members; or
 - 3) any proxy ~~that~~~~which~~ is not revocable at will by the member giving it; or
 - 4) any proxy ~~that~~~~which~~ is part of any other document or instrument, such as an account card.

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2040 Vote by Members

- a) Following approval of the plan of conversion by the ~~Director~~Commissioner, the plan of conversion shall be submitted for consideration to an annual or special meeting of members.
- b) Notice of the meeting to consider a plan of conversion shall be given by the proxy statement authorized for use by the ~~Director~~Commissioner. For the purposes of this subsection (b), the proxy statement may be in summary form, provided:
 - 1) A statement is made in bold-face type on the notice to members required under this subsection (b) that a more detailed description of the proposed transaction may be obtained by returning an attached postage-paid postcard or other written communication requesting a supplemental information statement ~~that~~which, together with the summary proxy statement, complies with the requirements of this Subpart;
 - 2) The last date on which the summary proxy statement is mailed to members will be considered the date on which notice is given for the purposes of this subsection (b). Without prior approval by the ~~Director~~Commissioner, the special meeting of members shall not be held fewer than 20 days after the last date on which the supplemental information statement is mailed to requesting members;
 - 3) The supplemental information statement required to be furnished to members may be combined with any form prescribed under Sections 1075.2500 through 1075.2580, if the subscription offering is started concurrently with or during the proxy solicitation period pursuant to Section 1075.1925(a);
 - 4) The summary proxy statement shall be prepared in accordance with the following requirements:
 - A) All the requirements of Sections 1075.2300 through 1075.2460, except:
 - i) Section 1075.2360;

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- ii) Section 1075.2370(c) through (m) and (o);
 - iii) Section 1075.2440; and
 - iv) Section 1075.2450(b).
- B) The disclosure requirements of Sections 1075.2380(j), 1075.2390 and 1075.2430 may be prepared in summary form.
- C) The disclosure requirements of Section 1075.2350 may be met through disclosure of the names, ages, and present occupations of all organization directors and executive officers.
- D) The plan of conversion shall not be required to be attached to the summary proxy statement under Section 1075.2460.
- c) The plan of conversion shall be approved by a vote of at least a majority of the total outstanding votes.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2045 Offers and Sales of Securities – Prohibitions

No offer to sell securities of an applicant pursuant to a plan of conversion may be made before approval by the DirectorCommissioner of the application for conversion and before any approval necessary to maintain federal deposit insurance. No sale of these securities in the subscription offering may be made except by the final offering circular for the subscription offering. No sale of unsubscribed securities may be made except by the final offering circular for the public offering or direct community marketing. The offering of shares in the direct community marketing may begin during the subscription offering upon the declaration of effectiveness by the DirectorCommissioner of the offering circular proposed for the community offering. This Section shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are to be in privity of contract with the applicant.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2050 Distribution of Offering Circulars Authorized

Any preliminary offering circular for the subscription offering, the public offering, or the direct community marketing which has been filed with the DirectorCommissioner may be distributed

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to eligible account holders or supplemental eligible account holders and to others in connection with the offering after the Director Commissioner has advised the applicant in writing that the application is properly executed and is not materially incomplete under Section 1075.2020. No final offering circular may be distributed until the offering circular has been declared effective by the Director Commissioner.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2060 Review of Price Information by the Director Commissioner

The Director Commissioner shall review the price information required under Section 1075.2055 in determining whether to give approval to an application for conversion. No representations may be made in any manner that the price information has been approved by the Director Commissioner or that the shares of capital stock sold pursuant to the plan of conversion have been approved or disapproved by the Director Commissioner or that the Director Commissioner has passed upon the accuracy or adequacy of an offering circular covering the shares.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2065 Underwriting Commission

Underwriting commissions shall not exceed an amount or percentage per share accepted as reasonable by the Director Commissioner. No underwriting commission may be allowed or paid with respect to shares of capital stock sold in the subscription offering; however, an underwriter may be reimbursed for accountable expenses in connection with the subscription offering. In the case in which no public offering occurs, an underwriter may be paid a consulting fee reasonable under the circumstances as the Director Commissioner shall accept. The term "underwriting commissions" includes underwriting discounts.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2070 Consideration of Pricing Information by the Director Commissioner—Guidelines

In considering the pricing information required under Section 1075.2055, the Director Commissioner shall apply the following guidelines.

- a) The materials shall be prepared by persons independent of the applicant, experienced and expert in the area of corporate appraisal, and acceptable to the

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DirectorCommissioner.

- b) The materials shall contain data which are sufficient to support the conclusions reached in the materials therein.
- c) The materials shall contain a complete and detailed description of the appraisal methodology employed.
- d) To the extent that the appraisal is based on a capitalization of the pro forma income of the converted savings bank, the materials shall indicate the basis for determination of the income to be derived from the proceeds of the sale of stock and demonstrate the appropriateness of the earnings multiple used, including assumptions made as to future earnings growth. To the extent that the appraisal is based on comparison of the capital stock of the applicant with outstanding capital stock of existing stock savings banks or stock savings and loan associations, the materials shall demonstrate the appropriate comparability of the form and substance of the outstanding capital stock and of the existing stock savings banks and stock savings and loan associations in terms of such factors as size, market area, competitive conditions, profit history, and expected future earnings.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2075 Submission of Information by Applicant

- a) In addition to the information required in Section 1075.2070, the applicant shall submit information demonstrating to the satisfaction of the DirectorCommissioner the independence and expertise of any person preparing materials under Section 1075.2070. However, a person will not be considered as lacking independence because the person will participate in effecting the sale of capital stock under the plan of conversion or will receive a fee from the applicant for services given in connection with the appraisal only if the person provides full and accurate disclosure of the fact of participation and receipt of fee to the DirectorCommissioner and in the offering circular. The DirectorCommissioner shall find no disclosure full and adequate unless the following information is clearly and prominently stated:
 - 1) the extent to which the person is directly or indirectly involved in preparing material required by Section 1075.2070 and in effecting the sale of capital stock under the conversion plan; and

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- 2) an itemized statement of fees received for preparing information required by Section 1075.2070 and for all other services given.
- b) The Director~~Commissioner~~ may require additional disclosures where necessary to ensure the integrity and accuracy of the information presented pursuant to Section 1075.2070.
- c) No information provided pursuant to Section 1075.2070 shall be approved by the Director~~Commissioner~~ unless the Director~~Commissioner~~ finds that full and adequate disclosure required by this Section has been made.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2080 Subscription Offering – Distribution of Order Forms for the Purchase of Shares

Promptly after the Director~~Commissioner~~ has declared the offering circular for the subscription offering effective, the applicant shall distribute order forms for the purchase of shares of capital stock, in the subscription offering to all eligible account holders, supplemental eligible account holders (if applicable), and other persons who may subscribe for the shares under the plan of conversion.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2105 Time Period for Completion of Sale of all Shares of Capital Stock

The sale of all shares of capital stock of the converting savings bank to be made under the plan of conversion, including any sale in public offering or direct community marketing, shall be completed as promptly as possible and within ~~45~~forty-five calendar days after the last date of the subscription period, unless extended by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2110 Continuity of Corporate Existence

Upon the filing of the articles of incorporation of a converted savings bank with the Director~~Commissioner~~ in accordance with Section 1075.2160, the corporate existence of the mutual savings bank converting to a stock savings bank pursuant to this Subpart shall not discontinue, but the converted savings bank shall be a continuation of the entity of the mutual savings bank so converted and shall have the same rights and obligations as it had before the

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conversion.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2120 Additional Filing Requirements

An applicant whose plan of conversion has been approved by the ~~Director~~Commissioner shall fulfill the following requirements.

a) The applicant shall file with the ~~Director~~Commissioner promptly after the meeting of members called to consider the plan of conversion a certified copy of each resolution adopted at ~~the~~such meeting relating to the plan of conversion, together with the following statements:

- 1) The total number of votes eligible to be cast;
- 2) The total number of votes represented in person or by proxy at the meeting;
- 3) The total number of votes cast in favor of and against each ~~such~~-matter (the compilation of the votes cast at the meeting may be prepared for the savings bank by an independent public accountant, or by an independent transfer agent); and
- 4) The percentage of votes necessary to approve each ~~such~~-matter.

b) The applicant shall file with the ~~Director~~Commissioner promptly after the meeting of savings bank members called to consider the plan of conversion an opinion of counsel to the effect that:

- 1) The meeting of members was duly held in accordance with all requirements of applicable law and ~~this Part~~regulation;
- 2) All requirements of State law applicable to the conversion have been complied with; and
- 3) If the savings bank has used proxies executed before the proxy solicitation required by Section 1075.2035, the authority conferred by ~~the~~such proxies includes authority to vote on the plan of conversion.

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- c) Each offering circular for the offering shall be prepared in compliance with this Subpart. The applicant shall file with the ~~Director~~ Commissioner ~~five~~ copies of each preliminary offering circular and ~~10~~ ten copies of each final offering circular.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2125 Availability for Conferences in Advance of Filing of Application – Refusal of Prefiling Review

- a) The ~~Division Office of Banks and Real Estate~~ shall be available for conferences with prospective applicants or their representatives in advance of filing an application to convert. These conferences may be held to discuss generally the problems confronting an applicant in effective conversion or to resolve specific problems of an unusual nature.
- b) Prefiling review of an application may be refused by the staff of the ~~Director~~ Commissioner if the review would delay the examination and processing of material ~~that~~ which has already been filed or would favor certain applicants at the expense of others.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2130 Appeal from Refusal to Approve Application

From the ~~Director's~~ Commissioner's refusal to approve an application for conversion, the applicant may, within ~~30~~ thirty days ~~after~~ from the date of the mailing by the ~~Director~~ Commissioner of notice of refusal to approve, appeal pursuant to Subpart I of this Part and the Illinois Administrative Procedure Act ~~[5 ILCS 100]~~ [5 ILCS 100/1-1 et seq.].

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2135 Postconversion Reports

The applicant shall file ~~such~~ postconversion reports concerning its conversion as the ~~Director~~ Commissioner may require.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2150 Certain Offers and Acquisitions Prohibited

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- a) Except as required by the federal insurer of accounts or the DirectorCommissioner, for ~~3~~three years following the date of the conversion, no person may directly or indirectly offer to acquire or acquire the beneficial ownership of more than ~~10%ten percent~~ of any class of an equity security of any savings bank converted in accordance with this Subpart without the prior written approval of the board of directors and of the DirectorCommissioner. Where any person, directly or indirectly, acquires beneficial ownership of more than ~~10%ten percent~~ of any class of any equity security of a savings bank converted in accordance with this Subpart, without prior written approval of the DirectorCommissioner as required by this Section, the securities beneficially owned by such person in excess of ~~10%ten percent~~ shall not be counted as shares entitled to vote and shall not be voted by any person or counted as voting shares in connection with any matter submitted to the stockholders for a vote. For the purposes of this Section, a person shall be considered to have acquired beneficial ownership of more than ~~10%ten percent~~ of a class of equity security of a savings bank where the person holds any combination of stock or revocable or irrevocable proxies of the savings bank. In obtaining prior written approval of the DirectorCommissioner under this Section, the criteria for approval under subsection (d) ~~below~~ may be addressed, if applicable, by the filing required by Section 1075.1700 of ~~this Partthese Rules~~. Notwithstanding the immediately preceding sentence, acquisitions under this Section require approval of both the board of directors of the converting savings bank and of the DirectorCommissioner.
- b) A conversion shall be complete on the date all the converting savings bank's conversion stock was sold.
- c) An acquisition of shares shall be presumed to have been made if the acquiror entered into a binding written agreement for the transfer of shares. An offer shall be considered made when communicated.
- d) The DirectorCommissioner shall not approve an application involving an offer for, an announcement ~~thereof~~, or an acquisition of any security of a converted savings bank if the DirectorCommissioner finds that the offer frustrates the purposes of this Subpart, is manipulative or deceptive, subverts the fairness of the conversion, is likely to result in injury to the savings bank, is not consistent with the Act, is otherwise violative of law or regulation, or would not contribute to the prudent deployment of the savings bank's conversion proceeds.
- e) Subsection (a) ~~above~~ shall not apply to any offer with a view toward public resale

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made exclusively to the savings bank or to the underwriters or a selling group acting on its behalf.

- f) Unless made applicable by the ~~Director~~ ~~Commissioner~~ by prior advice in writing, the restriction contained in subsection (a) ~~above~~ shall not apply to any offer or announcement of an offer which if consummated would result in the acquisition by a person, together with all other acquisitions by the person of the same class of securities during the preceding 12-month period, of not more than ~~1%~~ ~~one percent~~ of the class of securities.
- g) Subsection (a) ~~above~~ shall not apply to the acquisition of securities of a savings bank or holding company ~~of a savings bank thereof~~ by any one or more employee stock benefit plans of such savings bank or holding company if the plan or plans do not have beneficial ownership in the aggregate of more than ~~twenty-five percent (25%)~~ of any class of equity security of the converted savings bank or holding company.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2155 Definitions – Certain Transfers, Offers and Acquisitions Prohibited

For Sections 1075.2140, 1075.2145 and 1075.2150, the following definitions apply:

- a) The term "person" includes an individual, a group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization or similar company, a syndicate or any other group formed to acquire, hold or dispose of securities of a savings bank.
- b) The term "offer" includes every offer to buy or acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of, a security or interest in a security for value except that the term "offer" shall not include:
 - 1) Inquiries directed solely to the management of a savings bank and not intended to be communicated to stockholders, designed to elicit an indication of management's receptivity to the basic structure of a potential acquisition with respect to the amount of securities, manner of acquisition and formula for determining price, or
 - 2) Non-binding expressions of understanding or letters of intent with the management of a savings bank regarding the basic structure of a potential

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acquisition with respect to the amount of securities, manner of acquisition, and formula for determining price.

- c) The term "acquire" includes every type of acquisition, whether effected by purchase, exchange, operation of law or otherwise.
- d) The term "security" includes nontransferable subscription rights issued pursuant to a plan of conversion as well as a "security" as defined in the Securities Exchange Act of 1934 (15 ~~USC U.S.C.~~ 78c(a)(10)).

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2160 Amendments to Charter Required in Application – Articles of Incorporation – Filing of Certificate Required – Contents – Issuance and Filing of Authorization Certificate

- a) An application for conversion under this Subpart shall include amendments to the articles of incorporation of the converting savings bank.
- b) When all the stock of a converting savings bank has been subscribed for in accordance with the plan and any amendments to the plan~~thereto~~, the board of directors shall ~~there-upon~~ issue the stock and shall cause to be filed with the ~~Director~~Commissioner, in triplicate, a certificate subscribed and acknowledged by the persons who are to be directors of the converted savings bank, stating:
 - 1) That all the stock of the converted savings bank has been issued;
 - 2) That the attached articles of incorporation have been executed by all the persons who are to be directors of the converted savings bank;
 - 3) The place where the bank is to be located and its business transacted, naming the city, or town and county, which city or town shall be the same as that where the principal place of business of the predecessor mutual savings bank has been located;
 - 4) The name, occupation, residence, and post office address of each signer of the certificate;
 - 5) The amount of the assets of the predecessor mutual savings bank, the amount of its liabilities and undivided profits as of the first day of the

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current calendar month; and

- 6) A declaration that each signer will accept the responsibilities and faithful discharge the duties of a director of the converted savings bank and is free from all the disqualifications specified in the laws applicable to converted savings banks.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2165 Conversion Incident to Acquisition by Savings Bank Holding Company or Merger or Consolidation with Savings Bank Holding Company Subsidiary – Restriction on Sale of Shares of Stock by Organization Directors and Officers

- a) In a conversion of a mutual savings bank that is in the process of acquisition by a depository institution holding company, or in the process of merger or consolidation with another depository institution, the restrictions imposed by Section 1075.1890 on resale of stock apply to shares of the holding company purchased on original issue by any director or officer of the converting savings bank that is in the process of acquisition, merger, or consolidation, and the restrictions imposed by this Subpart apply to the ownership of capital stock in the depository institution holding company or other depository institution with the same force and effect as they would apply to the ownership of capital stock of the unconverted mutual savings bank, if shares of this savings bank were offered to depositors or the public pursuant to this Subpart.
- b) The tender of shares by directors and officers of a converted savings bank in exchange for shares of another converted savings bank, or for shares of a holding company, do not constitute a sale for purposes of Section 1075.1890. However, the shares received in such an exchange shall not be sold for a period of one year following the date of such purchase on original issue, except that the Director ~~Commissioner~~ may waive this restriction upon a finding that allowing a sale would substantially contribute to averting otherwise unavoidable injury to a savings bank.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2170 Sale of Control in Connection with the Conversion of a Mutual Savings Bank to Capital Stock Savings Bank – Undercapitalized Mutual Savings Bank

- a) A mutual savings bank not meeting an applicable capital requirement as of the

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end of the most recent period for which the savings bank has prepared audited financial statements, may seek approval to convert to stock form pursuant to a plan of conversion that provides for the sale of its capital stock directly to acquirors, who may be a person, company, depository institution, holding company, who will be in control of ~~thesueh~~ savings bank upon the purchase of ~~thesueh~~ capital stock. If in accordance with applicable laws and regulations, the conversion may result in the converting savings bank being merged into or consolidated with an existing or newly created depository institution.

- b) The provisions of this Section shall govern a conversion authorized by subsection (a). All other Sections of this Subpart shall not apply to the conversion unless provided in the plan of conversion adopted by the board of directors of the converting savings bank or required by the ~~Director~~Commissioner.
- c) A majority of the converting savings bank board of directors must adopt a plan of conversion that complies with this Section. The members of the association have no rights or approval or participation in a conversion under this Section or to the continuance of any legal or beneficial ownership interests in the converted savings bank, unless otherwise provided by the ~~Director~~Commissioner. The members shall have an interest in a liquidation account established pursuant to Section 1075.1940 of this Subpart if one is established pursuant to subsection (h).
- d) In connection with approval under this Section, the ~~Director~~Commissioner may impose conditions and restrictions on the converting or resulting institution, the acquiror, and controlling parties, organization directors and officers of either, to prevent unsafe and unsound practices, to protect the deposit insurance fund and the public interest, and to prevent potential injury or detriment to the converting or resulting institution.
- e) The ~~Director~~Commissioner may deny a savings bank's conversion if ~~she or he~~ or she determines that the converting or resulting institution, the acquiror, or controlling parties or organization directors or officers of either, have engaged in unsafe or unsound practices in connection with the conversion, or that the conversion is detrimental to or would cause potential injury to the converting or resulting institution, deposit insurance funds, or is contrary to the public interest.
- f) For 3 years following the date of completion of a conversion under this Section, neither any controlling shareholder nor the resulting institution may acquire shares from minority shareholders without prior approval of the ~~Director~~Commissioner.

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- g) An application for conversion under this Section shall, at a minimum, include:
- 1) A plan of conversion adopted by a majority of the directors of the savings bank, which shall contain at a minimum the name and address of the savings bank; the names, addresses, dates and places of birth, and social security numbers of the proposed purchasers of conversion stock and their relationship to the savings bank; the title, per-unit par value, number, and per-unit and aggregate offering price of shares of conversion stock to be authorized and issued; the number and percentage of shares of conversion stock to be purchased by each investor, the aggregate number and percentage of shares of conversion stock to be purchased by organization directors, officers and their affiliates and associates; a description of the liquidation account, if required under subsection (h), or if otherwise established; and certified copies of all resolutions of the board of directors relating to the plan of conversion;
 - 2) A copy of any agreements between the savings bank and the proposed conversion stock purchasers;
 - 3) An opinion of qualified, independent counsel or an independent, certified public accountant regarding the tax consequences to the savings bank arising from the conversion;
 - 4) A business plan, which shall contain a description of the proposed operating policies of the savings bank or the resulting savings bank following the conversion, including a statement as to how the conversion proceeds will be used, and a projection of the savings bank's results of operations for the 3 year period following completion of the conversion. The projections should show the continuing ability of the converted savings bank to meet applicable capital requirements. The savings bank shall specify the assumptions on which its projections are based;
 - 5) An application under Section 1075.1700 of Subpart N of this Part;
 - 6) The proposed charter and bylaws of the converted savings bank;
 - 7) The proposed stock certificate form;
 - 8) A description of all existing and proposed employment contracts, if

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applicable;

- 9) All findings required under the securities offering rules of this Subpart;
- 10) Applications for permission to organize a stock savings bank and for approval of a merger, if applicable, and FDIC insurance of accounts, if applicable;
- 11) Information to support the value of any non-cash assets to be contributed to the savings bank in connection with the conversion, if applicable. Appraisals submitted in this connection must be acceptable to the Director~~Commissioner~~;
- 12) A description of the estimated expenses of the conversion to the savings bank;
- 13) The savings bank's most recent audited financial statements with an appropriate explanation to support the determination that the savings bank's current capital levels qualify it to undertake a supervisory conversion;
- 14) "Pro forma" financial statements to reflect the effects of the transaction. These pro forma financial statements should be supplemented to identify the converting or resulting capital levels and show the appropriate adjustments necessary to compute such capital levels;
- 15) A specific description of any of the features of the savings bank's application that do not conform to the requirements of this Subpart;
- 16) A specific description of and detailed justification for any waivers or supervisory forbearances that are requested as part of the conversion;
- 17) A statement of all other applications required pursuant to federal law for all transactions related to the savings bank's conversion, copies of all decisions, orders, opinions, and other similar dispositive documents issued by regulatory authorities relating to such applications, and, if requested, copies of such applications and related documents; and
- 18) Opinion of financial advisor:

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- A) The savings bank shall be required to retain a reputable financial advisor with expertise in valuing depository institutions to advise it as to the fairness or the consideration to be paid by the proposed acquiror. The financial advisor shall furnish a written opinion specifically informing the converting savings bank as to the fairness from a financial point of view to the converting savings bank of the proposed consideration.
- B) ~~TheSuch~~ written opinion shall specifically disclose in reasonable detail:
- i) the professional standards employed by the financial advisor in arriving at its conclusions; and
 - ii) the factual basis upon which ~~thesuch~~ conclusions were reached.
- C) The opinion shall specifically state whether the financial advisor, in arriving at his or her conclusions as to the fairness of the proposed consideration, has made efforts to determine whether, in his or her ~~judgment;judgement~~, there is the reasonable significant probability that financially able purchasers of the character generally capable of securing regulatory approval other than the proposed acquiror, given an opportunity, might have made good faith offers to purchase control of the converting savings bank for a consideration materially greater than that proposed to be paid by the proposed acquiror, and has compared the consideration to be paid by the proposed acquiror with the consideration paid in the purchase of other savings banks or savings and loan associations of comparable size, market area, profit history, competitive conditions and projected future earnings.
- D) If the financial advisor has made any such efforts or ~~any-such~~ comparisons, the nature and scope of ~~thesuch~~ efforts and comparisons shall be discussed in detail. The written opinion shall state whether and on what basis the financial advisor believes that the consideration to be paid by the proposed acquiror exceeds the aggregate amount of net proceeds which the converting savings bank could have realized if the capital stock to be sold to the proposed acquiror had been sold in a subscription offering

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followed by an underwritten public offering. The written opinion shall be delivered to the DirectorCommissioner before any approval of the application for conversion will be granted by the DirectorCommissioner.

- h) A liquidation account must be established in accordance with Section 1075.1940 of ~~this~~the Subpart; however, the DirectorCommissioner may waive this requirement upon a written finding that the savings bank's net worth is zero or less than zero, or for other good cause upon a written finding that specifies the existence of ~~such~~ good cause.
- i) No solicitation of proxies in connection with a conversion pursuant to this Section shall be made unless the person so solicited is concurrently furnished with or has been previously furnished with a proxy statement or a short-form proxy statement complying with this Subpart. If the persons to whom capital stock is offered or sold pursuant to a conversion effected in compliance with this Section shall exceed 20 in number, each of ~~thesuch~~ persons shall be furnished with an offering circular complying with this Subpart before the consummation of any ~~such~~ sale.
- j) Upon the Director's Commissioner's approval of the plan of conversion, the mutual savings bank charter shall be surrendered to the DirectorCommissioner and a stock charter issued by the DirectorCommissioner.
- k) The corporate existence of a mutual savings bank converting to stock savings bank shall not terminate and shall be considered to be a continuation of the savings bank so converted.
- l) The Director's Commissioner's approval of a conversion under this Section shall be conditioned upon the following:
 - 1) Completion of the sale of conversion stock within 3 months after the DirectorCommissioner approves the application, or within ~~ansuch~~ additional period as the DirectorCommissioner may for good cause grant;
 - 2) Compliance with all filing requirements of this Subpart, subject to subsection (b); and
 - 3) Satisfaction of any other requirements or conditions the DirectorCommissioner may impose.

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2210 Application – Filing the Application and Fees

- a) An application shall be prepared by a mutual savings bank that proposes to convert to a stock owned savings bank. The application must demonstrate that the applicant complies with the Act and ~~this Part~~ rules promulgated thereunder. Not including copies filed pursuant to Section 1075.2020, ~~three~~ three completed manually signed copies with all exhibits, with an application fee of ~~\$10,000~~ ten thousand dollars, shall be filed with the ~~Director~~ Commissioner, ~~Division of Banking~~ Office of Banks and Real Estate, Department of Financial and Professional Regulation, 310 South Michigan Avenue, Suite 2130, Chicago, Illinois 60604-4278. The date a document is actually received by the ~~Director~~ Commissioner shall be the date of filing ~~thereof~~.
- b) Any application for approval that is improperly executed, or that does not contain copies of a plan of conversion, amendments to the charter of the applicant in the form of new articles of incorporation, proxy materials, and preliminary offering circulars for the subscription offering and for the public offering or direct community marketing, shall not be accepted for filing and shall be returned to the applicant. Any application for approval containing a materially incomplete plan of conversion, offering circular, or proxy statement shall be returned by the ~~Director~~ Commissioner to the applicant. ~~Applicants for conversions~~ Conversions effected pursuant to Section 1075.2170 need not file documents or information to the extent that Section 1075.2170(d) allows.
- c) Signature page:
 - 1) Every application and every amendment ~~to an application~~ thereto filed shall include a signature page ~~that~~ which shall be manually signed by:
 - A) A duly authorized representative of the applicant on its behalf;
 - B) Its principal executive officer;
 - C) Its principal financial officer;
 - D) Its principal accounting officer; and
 - E) At least two-thirds of its organization directors.

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- 2) Those signing the application shall attest on the signature page as follows:
 - A) In submitting an application, the applicant understands and agrees that if further examinations, investigations, or appraisals are required by the ~~Director~~Commissioner, they will be conducted by, or as approved by, the ~~Director~~Commissioner at the expense of the applicant and applicant will pay the costs thereof as computed by the ~~Director~~Commissioner.
 - B) The application has been approved by at least two-thirds of the board of directors of the applicant. In accordance with the Act and ~~this Part~~the rules promulgated thereunder by the filing of this application, the applicant by its duly authorized representative, the undersigned officers and each member of the applicant's board of directors severally represent:
 - i) that each ~~such~~ person has read this application; and
 - ii) that in the opinion of each ~~such~~ person, he or she has made such examination and investigation as is necessary to enable him or her to express an informed opinion that this application complies to the best of his or her knowledge and belief with the application requirements of the Act and this Part.
- 3) If any name is signed to an application or any amendment ~~to an application~~thereto pursuant to a power of attorney, a manually signed copy of the power of attorney shall be filed with each copy of the application.
- d) Except as provided in subsection (e) ~~below~~, the filing of any application or amendment ~~to any application~~thereto under this ~~Subpart~~chapter shall constitute a representation of the applicant by its duly authorized representative, the applicant's principal executive officer, the applicant's principal financial officer, and the applicant's principal accounting officer, and each member of the applicant's board of directors (whether the ~~organization~~ director has signed the application or any amendment ~~to an application~~thereto) severally that:
 - 1) he or she has read the application or amendment,

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- 2) in the opinion of each ~~such~~ person he or she has made such examination and investigation as is necessary to enable him or her to express an informed opinion that ~~the~~~~such~~ application or amendment complies to the best of his or her knowledge and belief with the applicable requirements of this Subpart, and
 - 3) each ~~such~~ person holds this informed opinion.
- e) The representations specified in subsection (d) ~~above~~ shall not be considered to have been made by any organization director of the applicant who did not sign the application or any amendment ~~to the application thereto~~, if, and only to the extent that, the organization director files with the Director~~Commissioner~~ within ~~10~~~~ten~~ business days after the filing of the application or amendment a statement describing those portions of the filing as to which he or she does not so represent.
- f) If applicable, the applicant shall furnish information in accordance with Subpart N of this Part.
- g) Consent of experts:
- 1) If any accountant, attorney, investment banker, appraiser, financial advisor, or other person whose profession gives authority to a statement made in any application under this Subpart is named as having prepared, reviewed, passed upon, or certified any part of the application, or any report or valuation for use in connection with the application, the written consent of the person shall be filed with the application. If any portion of an expert's report is quoted or summarized as such in any filing under this Subpart, the written consent of the expert shall expressly state that the expert consents to this quotation or summarization.
 - 2) All written consents filed pursuant to this Section shall be dated and signed manually. A list of the consents shall be filed with the application. Where the consent of the expert is contained in the expert's report, the list shall state that the report contains the consent.
- h) After the Division ~~Office of Banks and Real Estate~~ has reviewed the filed materials, the applicant may be required to furnish additional information as an amendment to the application. Further, the applicant may amend the application at its discretion. All amendments shall be clearly identified as such, numbered consecutively, and shall comply with all pertinent requirements of the application,

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including signature.

- i) Whenever the ~~Director~~Commissioner prohibits by order or otherwise the use of any filing under this Part, the form and contents of any filing used after the prohibition thereafter shall conform to the requirements of thesuch order and the applicable regulations in effect at the time thesuch prohibition is no longer effective.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2220 Application – Preparing the Application

- a) Requirements as to paper and printing:
 - 1) Applications shall be filed on good quality, unglazed, white paper approximately 8½ by 12 or 8½ by 11 inches in size, insofar as is practicable. However, tables, charts, maps and financial statements may be on larger paper if folded to thosesuch sizes, and the plan of conversion, proxy statement and offering circular may be on a smaller paper if the applicant so desires.
 - 2) Applications; and, insofar as is practicable, all papers and documents filed as a part those applicationsthereof, shall be printed, lithographed, mimeographed or typewritten. However, applications or any portion of the applicationsthereof may be prepared by any similar process thatwhich, in the opinion of the ~~Director~~Commissioner, produces copies suitable for a permanent record. Irrespective of the process used, all copies of theany such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as-such on photocopies.
- b) Every application shall include a cross reference sheet showing the location in the proxy statement and offering circular of the response to the appropriate Section of this Part. If any such-item is inapplicable, or the answer thereto-is in the negative and is omitted, a statement to that effect shall be made in the cross reference sheet.
- c) The body of all printed plans of conversion, proxy statements, and offering circulars, including all notes to financial statements and other tabular data

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included ~~in the statements therein~~, shall be in Roman type at least as large and as legible as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, may be in Roman type at least as large and as legible as 8-point modern type. All ~~thesuch~~ type shall be leaded at least 2 points.

d) Interpretation of requirements:

- 1) Unless the context indicates otherwise, the information required is only as to the applicant.
- 2) Whenever words relate to the future, they have reference solely to present intention.
- 3) Any words indicating the holder of a position or office include persons, by whatever titles designated, whose duties are those ordinarily performed by holders of ~~thosesuch~~ positions or offices.

e) Incorporation of certain information by reference:

- 1) Where an item in an application calls for information not required to be included in the proxy statement or offering circular, matter contained in any other part of the application, including exhibits, may be incorporated by reference in answer, or partial answer, to ~~thesuch~~ items.
- 2) No information may be incorporated by reference in a proxy statement or offering circular, unless the document containing ~~thatsuch~~ information is attached ~~to the statement or circular thereto~~ or is summarized or outlined as provided in subsection (f) ~~below~~. However, an offering circular may incorporate by reference the information contained in a proxy statement previously delivered, without need of summary or outline.
- 3) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the information is required. ~~MaterialMatter~~ shall not be incorporated by reference in any case where ~~thesuch~~ incorporation would make the statement incomplete, unclear or confusing.

f) Where a summary or outline of the provisions of any document is required, only a

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brief statement shall be made, in succinct and condensed form, as to the most important provisions of the document. In addition to ~~thesueh~~ statement, the summary or outline may incorporate by reference particular items, sections or paragraphs of any exhibit and may be included in its entirety by ~~thesueh~~ reference.

g) Presentation of information:

- 1) The information required in a proxy statement or offering circular need not follow the order of ~~its~~~~their~~ presentation or other requirements in the appropriate sections. ~~TheSueh~~ information shall not, however, be set forth in ~~asueh~~ fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading. Where a section requires information to be given in tabular form it shall be given in substantially the tabular form specified in the section.
- 2) All information contained in a plan of conversion, proxy statement or offering circular shall be set forth under appropriate captions or headings reasonably indicative of the principal subject matter set forth ~~in the plan, statement or circular~~~~thereunder~~. Except as to financial statements and other tabular data, all information set forth in any form under this Subpart shall be divided into reasonably short paragraphs or sections.
- 3) Every proxy statement and offering circular shall include in ~~its~~~~the~~ forepart ~~thereof~~ a reasonably detailed table of contents showing the subject matter of its various sections or subdivisions and the page number on which each ~~sueh~~ section or subdivision begins.
- 4) All information required to be included in a proxy statement or offering circular shall be clearly understandable without the necessity of referring to the particular Section of this Subpart. Except as to financial statements and information required in tabular form, the information set forth in a proxy statement or offering circular may be expressed in condensed or summarized form.
- 5) Financial statements are to be set forth in comparative form, and shall include ~~any~~~~the~~ notes ~~thereto~~ and the accountants' certificate or certificates.

h) All amendments to an application under this Subpart shall be filed under cover of

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an appropriate facing sheet, shall be numbered consecutively in the order in which filed, and shall conform to all pertinent requirements of this Subpart.

- i) Information required needs to be given only insofar as it is known or reasonably available to the applicant. The applicant may not omit information that is in fact known regardless of whether thesueh information was reasonably available. If any required information is unknown and not reasonably available to the applicant, either because the obtaining thereof would involve unreasonable effort or expense or because it rests peculiarly within the knowledge of another person not affiliated with the applicant, the information may be omitted, subject to the following conditions:
 - 1) The applicant shall give anysueh information on the subject as it has or can acquire without unreasonable effort or expense, together with the sources of the informationthereof; and
 - 2) The applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.
- j) The information provided should be presented in such a manner that the reader does not have to refer to the applicable Section of this Subpart to understand what is being conveyed. It is not necessary that the applicant restate the text of any section, but the applicant should structure responses in such a manner as to clearly indicate to which Sectionsection the response applies. The nonapplicability of any item should be affirmatively noted. The following shall be also applicable:
 - 1) Include an index of Sectionssections and subsections.
 - 2) Exhibits and inserts are permissible if referenced under the appropriate Sectionsection, with identification tabs attached.
 - 3) If required information is not reasonably or economically available to the applicant, explanation for its omission should be included.
 - 4) Material available for public inspection may be incorporated by reference in response to any Sectionsection, but specified, including item, page, and paragraph number, if applicable.

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- k) Should the applicant desire to submit any information it considers to be of a confidential nature regarding the response to any part of an application, ~~thesueh~~ information shall be separately bound and labeled in capital letters, "~~CONFIDENTIAL~~Confidential" and a statement shall be submitted therewith briefly setting forth the grounds on which such information should be treated as confidential. Only general reference ~~thereto~~-need be made of that "confidential" portion in the portion of the application which the applicant considers not to be confidential. If any material has been granted confidential treatment under State or federal law, or by a government agency, or the New York Stock Exchange, ~~thesueh~~ circumstances should be described. All materials filed as part of this application are available for inspection, except for portions ~~thatwhich~~ are bound and labeled in capital letters, "~~CONFIDENTIAL~~Confidential" and ~~thatwhich~~ the ~~Director Commissioner~~ determines to hold from public availability because of their confidential nature. The ~~Director Commissioner~~ will not permit public inspection or copying of any material that is or would be confidential under State law. The ~~Director Commissioner~~ will advise the applicant of any decision to make available to the public information labeled in capital letters, "~~CONFIDENTIAL~~Confidential". It should be understood that it may be necessary for the ~~Director Commissioner~~ to release materials heretofore given confidential treatment. It should be further understood that even though parts of the application are considered "confidential" as far as public inspection ~~thereof~~ is concerned, the ~~Director Commissioner~~ may comment on the confidential submissions in any public statement in connection with the ~~Director's Commissioner's~~ decision on the application without prior notice to the applicant.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2230 Application – Application Contents

The application shall include:

- a) The complete formal written plan adopted by the board of directors for conversion of the applicant to the stock form of organization. The terms of the plan submitted pursuant to this subsection will be a basis for the ~~Director's Commissioner's~~ approval, and the plan as approved will be distributed as an attachment to the proxy statement and the offering circular;
- b) Preliminary copies of the proxy statement and offering circular. The proxy statement and offering circular should be prepared in accordance with Sections 1075.2300 ~~through 1075.2460, et seq.~~ and 1025.2500 ~~through 1025.2580 et seq.~~

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respectively, ~~that~~ which are attached to the application;

- c) Preliminary copies of the form of proxy to be distributed to members by management of the applicant;
- d) The expected chronological order of the events connected with the plan of conversion beginning with the filing of this application through completion of the sale of all the capital stock under the Conversion Plan (Indicate the expected timing of any requisite approvals by other regulatory authorities. Indicate the proposed timing of all aspects of the subscription offering. If there will be an underwritten public or direct community marketing of the applicant's securities as part of the Conversion Plan, indicate the proposed timing of all aspects of ~~the~~ such offering.);
- e) If the applicant's Conversion Plan contains an eligibility record date substantially earlier than 90 days before the date of adoption of the Conversion Plan by the board of directors, state the reason for the selection of ~~the~~ such earlier date. Indicate the circumstances that will require the use of a supplemental eligibility record date;
- f) In substantially the tabular form indicated below, the estimated expense of the conversion to the applicant:

Legal .....	.....
Postage and Mailing .....	.....
Printing .....	.....
Escrow or Agent Fees.....	.....
Underwriting Fees .....	.....
Appraisal Fees .....	.....
Transfer Agent Fees .....	.....
Auditing and Accounting .....	.....
Proxy Solicitation Fees.....	.....
Advertising .....	.....
Other Expenses.....	.....
Total .....	.....

- 1) The applicant may exclude costs represented by salaries and wages of regular employees and officers if a statement to that effect is made. The

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cost of solicitation by specially engaged employees or paid ~~solicitors~~~~solicitor~~ under Section 1075.2330(b) shall be stated under "Proxy Solicitation Fees".

- 2) If the applicant has any category of expenses exceeding \$10,000 ~~that~~~~which~~ is not specified in this Section, ~~thesueh~~ expense shall be itemized rather than including it under the category "Other Expenses".
 - 3) If the solicitation is conducted other than by management of the applicant, the information required in this Section shall be provided with respect to the cost of such solicitation, and
- g) A statement of the general effect of any charter provision, bylaw, contract, arrangement, statute, or regulation to be in effect during or after the conversion under which any underwriter, appraiser, lawyer, accountant or expert, or ~~organization~~ director or officer of the applicant will be insured or indemnified in any manner against any liability ~~that~~~~which~~ he or she may incur in his or her capacity as such.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2240 Application – Application Exhibits

The following exhibits shall be attached to the application:

- a) The following documents, contracts and agreements:
 - 1) Proposed certificates for capital stock and any other securities to be issued;
 - 2) Proposed order forms with respect to the subscription rights;
 - 3) Any proposed stock option plan and form of stock option agreement;
 - 4) Any proposed management employment contracts;
 - 5) Any contract described in complying with Section 1075.2360;
 - 6) Contracts or agreements with paid solicitors described in complying with Section 1075.2330(b);

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- 7) Any material loan agreements relating to borrowing by the applicant other than from a Federal Home Loan Bank and other than subordinated debt securities approved by the ~~Director~~Commissioner;
 - 8) Any appraisal agreement or proposed agreement, underwriting contracts or agreements among underwriters;
 - 9) Any proposed contracts or agreements among members of a group regarding the purchase of unsubscribed shares;
 - 10) Any required undertaking or affidavits by officers or organization directors purchasing shares in the conversion that they are acting independently;
 - 11) Any documents referred to in complying with Section 1075.2230(g);
 - 12) Any trustee agreements or indentures;
 - 13) Any agreements for the making of markets or the listing on exchanges of the stock of the converted savings bank. Documents, contracts and agreements ~~that~~which are furnished in proposed form under this exhibit shall be furnished in final form immediately after the meeting of members to consider the plan of conversion, except for documents ~~that~~which by their nature cannot be practically expected until a later time required by subsections (a)(8) and (9) ~~above~~ in which case they shall be furnished in substantially final form; and
 - 14) Any documents referred to in complying with Section 1075.2230(g).
- b) An opinion of counsel for the applicant regarding each of the following matters:
- 1) The legal sufficiency of the applicant's proposed certificate and order forms for capital stock and any other securities;
 - 2) Whether State and, if applicable, federal law, requirements will be fulfilled by the Conversion Plan;
 - 3) The legal sufficiency of the applicant's proposed charter and bylaws;

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- 4) The continuation of insurance of the applicant's accounts by the Federal Deposit Insurance Corporation after conversion; and
 - 5) The type and extent of each class of voting rights in the applicant after conversion;
- c) An opinion of:
- 1) the applicant's tax advisor or an Internal Revenue ruling as to the ~~federal~~Federal income tax consequences of the Conversion Plan to the applicant and to the various account holders who receive nontransferable subscription rights to purchase capital stock; and
 - 2) the applicant's tax advisor or, if applicable, a ruling from the appropriate State taxing authority as to any tax consequences of the Conversion Plan under ~~the laws of this State~~ law. ~~The~~Such opinion should relate to the applicant and to eligible account holders;
- d) Any materials required to be filed by Section 1075.2105 regarding the valuation of the applicant's capital stock. An applicant is not required to file ~~thesesuch~~ materials if the offering of capital stock will not begin before the meeting of members to vote on the Conversion Plan;
- e) The notices to the applicant's members required by Sections 1075.2005 through 1075.2020;
- f) Additional exhibits:
- 1) If information required pursuant to a relevant Section of this Part is not given for the reasons specified in Section 1075.2220(i), the statement required for each such omission;
 - 2) All consents required to be filed by Sections 1075.2210(g) and 1075.2520;
 - 3) If applicable, the statement required by Section 1075.2350 regarding events which occurred within the last ~~10~~ten years to organization directors of the applicant;
 - 4) Any powers of attorney employed pursuant to Section 1075.2210(c); and

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- 5) ~~The~~Furnish the cross-reference sheet referred to in Section 1075.2220(b).

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2300 Proxy Statement – Information Required in Conversion Proxy Statement

- a) The conversion proxy statement shall conform to the requirements of this Section 1075.2300 through Section 1075.2460.
- b) Except as otherwise specifically provided, where any Section calls for information for a specified period in regard to organization directors, officers or other persons holding specified positions or relationships, the information shall be given in regard to any person who held any of the specified positions or relationships at any time during the period. However, information need not be included for any portion of the period during which ~~the~~such person did not hold any such position or relationship provided a statement to that effect is made.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2330 Proxy Statement – Persons Making the Solicitations

- a) State whether the solicitation is made by the management of the applicant. Give the name of any organization director or the applicant who has informed the management in writing that he or she intends to oppose any action intended to be taken by the management and indicate the action which he or she intends to oppose.
- b) If the solicitation is to be made otherwise than by the use of the mails, describe the methods to be employed. If the solicitation is to be made by specially engaged employees or paid solicitors, state the material features of any contract or arrangement for such solicitation and identify the parties.
- c) If the solicitation is made otherwise than by the management of the applicant, so state and give the names of the persons by whom and on whose behalf it is made. ~~The~~Any such solicitation normally need not respond to Sections 1075.2330 through 1075.2460, but must include such information as to make such solicitation comply with Section 1075.2035(d)(3).

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

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Section 1075.2350 Proxy Statement – Organization Directors and Executive Officers

- a) Furnish the information regarding organization directors and executive officers and certain relationships and related transactions required to be disclosed in a registration or proxy statement filed under the Securities Exchange Act of 1934 (15 USC U.S.C.-78a et seq.), as amended to July 1, 1991. In particular, see Items 401 and 404 of the "General Rules Regarding Disclosures: Regulations S-K – Standard Instructions for Filing Forms under Securities Act of 1933 and the Securities Exchange Act of 1934" (17 CFR 229.401 and 404, November, 1992, no subsequent dates or editions), and Item 6 of Regulation 14A of the "Rules and Regulations Under Securities Exchange Act of 1934 (17 CFR 240.14a-101, October, 1992, no subsequent dates or editions). Unless the context otherwise requires, the words "registrant" and "issuer" in those regulations shall refer to the applicant and the word "Commission" shall refer to the DirectorCommissioner.
- b) State whether control of the applicant has been exercised through the use of proxies and the nature of thesuch control.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2360 Proxy Statement – Management Remuneration

Furnish the information regarding management remuneration required to be disclosed in a registration or proxy statement filed under the Securities Exchange Act of 1934. In particular, see Item 402 of the "General Rules Regarding Disclosures: Regulations S-K - Standard Instructions for Filing Forms under Securities Act of 1933", no subsequent dates or editions, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549, as of the effective date of this Section 1075.2360, and the Securities Exchange Act of 1934" (17 CFR 229.402 and 404, 1992, no subsequent dates or editions), and Item 7 of Regulation 14A of the "Rules and Regulations Under Securities Exchange Act of 1934 (17 CFR 240.14a-101) as of the effective date of this Section 1075.2360, no subsequent dates or editions. Unless the context otherwise requires, the words "registrant" and "Commission" in those regulations shall refer to the applicant and to the DirectorCommissioner, respectively.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2370 Proxy Statement – Business of the Applicant

- a) Narrative description of business.

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- 1) Discuss briefly the organizational history of the applicant, including the year of organization, the identity of the chartering authority, and any charter conversions.
 - 2) Describe the business conducted and intended to be conducted by the applicant and its subsidiaries. This should include a description of the general development of the business of the applicant and any ~~predecessors~~ predecessor(s) during the past ~~5~~ five years, or ~~asuch~~ shorter period as the applicant may have been engaged in business. Information shall be disclosed for earlier periods if material to an understanding of the general development of the business. Any material changes in the mode of conducting the business should be discussed.
 - 3) Consideration should be given to inclusion of a description of the applicant's historical practices, including the average remaining term to maturity of its portfolio of mortgage loans, and present intention regarding the making of loans, whether real estate or other, the nature of security received, the terms of loans, whether carrying fixed or variable interest rates, and the retention of loans or their resale in secondary mortgage markets. Historical description might require a general identification of the magnitude of various activities.
 - 4) ~~Explain~~ Also explain any significant impact to the institution as a result of any material acquisitions.
- b) Selected financial data – Furnish in comparative columnar form a summary of selected financial data for the applicant for:
- 1) each of the last ~~5~~ five fiscal years of the applicant (or for the life of the applicant and its predecessors, if less); and
 - 2) any additional fiscal years necessary to keep the summary from being misleading.
 - 3) In furnishing the information required by this subsection, the following shall apply:
 - A) The purpose of the summary of selected financial data shall be to supply in convenient and readable format selected data ~~that~~ which

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highlight significant trends in the applicant's financial condition and results of operations.

- B) Subject to appropriate variation to conform to the nature of the applicant's business, the following items, as a minimum, shall be included in the summary: Total interest income; total interest expense; income (loss) from continuing operations; net income; total loans; total investments; total assets; total savings; total borrowings; total capital; and total number of customer service facilities indicating the number which provide full service. Applicants may include additional items which they believe would enhance understanding and highlight trends in their financial condition and results of operation. Briefly describe, or cross-reference to a discussion of, factors such as accounting changes, business combinations, or dispositions of business operations that materially affect the comparability of the information reflected in selected financial data. Discussion of, or reference to, any material uncertainties should also be included where those matters might cause the data reflected not to be indicative of the applicant's future financial condition or results of operations.
- C) Those applicants ~~that~~^{which} elect to provide 5 year summary information in accordance with Section C28 of the Financial Accounting Standards Board's Statement of Financial Accounting Standards (FASB Statement 89), "Financial Reporting and Changing Prices", (Accounting Standards Current Text General Standards as of June 1, 1992, no subsequent date or addition, Financial Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk CT 06856-5116), may combine ~~the~~^{such} information with the selected financial data appearing pursuant to this Section.
- D) All references to the applicant in the summary and in these instructions shall mean the applicant and its consolidated subsidiaries.
- E) If interim-period financial statements are included, or are required to be included by Section 1075.2450 ~~below~~, applicants should update the selected financial data for the interim period to reflect any material change in the trends indicated; ~~when~~^{where} ~~such~~

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updating information is necessary, applicants should provide the information on a comparative basis unless not necessary to an understanding of the updating information.

- c) Management's discussion and analysis of financial condition and results of operation.
- 1) Discuss the applicant's financial condition, and results of operations. The discussion shall provide information as specified in subsection (c)(1)(A), (B), and (C) ~~below~~ with respect to liquidity, capital resources, and results of operations and also should provide all other information ~~that~~which the applicant believes to be necessary to an understanding of its financial condition, changes in financial condition, and results of operations. Significant business combinations should be discussed. Discussion of liquidity and capital resources may be combined whenever the ~~two~~ topics are interrelated. Where in the applicant's judgment a discussion of subdivisions of the applicant's business would be appropriate to an understanding of the business, the discussion should focus on each relevant, reportable segment or other subdivision of the business and on the applicant as a whole.
- A) Liquidity – Identify any known trends or any known demands, commitments, events, or uncertainties ~~that~~which will result in or ~~that~~which are reasonably likely to result in the applicant's liquidity increasing or decreasing in any material way. If a material deficiency is identified, indicate the course of action ~~that~~which the applicant has taken or proposes to take to remedy the deficiency. Identify and separately describe internal and external sources of liquidity, and briefly discuss any material unused sources of liquid assets. Comment on maturity imbalances between assets and liabilities and planned activities in the secondary mortgage market.
- B) Committed resources.
- i) Describe the applicant's material commitments for loan fundings or other expenditures as of the end of the latest fiscal period and indicate the general purpose of the commitments and the anticipated source of funds needed to fulfill the commitments.

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- ii) Describe any known material trends, favorable or unfavorable, in the applicant's committed resources. Indicate any expected material changes in the mix and the relative cost of the resources. This discussion should consider changes between savings, equity, debt, and any off-balance-sheet financing arrangements.

C) Results of operations.

- i) Describe any unusual or infrequent events or transactions or any significant economic changes that materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to ~~that~~ which income was affected. In addition, describe any other significant components of revenues or expenses which, in the applicant's judgment, should be described in order to understand the applicant's results of operations.
- ii) Describe any known trends and uncertainties ~~that~~ which have had, or ~~that~~ which the applicant reasonably expects will have, a materially favorable or unfavorable impact on net sales or revenues or income from continuing operations. If the applicant knows of events ~~that~~ which will cause a material change in the relationship between costs and revenues (such as known future increases in costs of money or interest rates), the change in the relationship should be disclosed.
- iii) To the extent that the financial statements disclose material increases in interest expense, provide a narrative discussion of the extent to which the increases are attributable to increases in rates or to increases in volume.
- iv) For the ~~3~~ three most recent fiscal years of the applicant, discuss the impact of inflation and changing prices on the applicant's revenues and on income from continuing operations.
- v) For the most recent financial statement presented, discuss any unusual risk characteristics in the assets of the

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applicant. This would include real estate development, significant amounts of commercial real estate as loan collateral, and any other significant risk factors inherent in the applicant's lending or investment portfolios, including significant increases in amounts of non-accrual, past due, restructured, and potential problem loans (U.S. Securities and Exchange Commission's Securities Act Industry Guide 3, Section III C 1992, no subsequent dates or editions, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549).

- D) In completing subsection (c)(1) ~~above~~, the following shall apply:
- i) The applicant's discussion and analysis shall be of the financial statements and of other statistical data ~~that~~~~which~~ the applicant believes will enhance a reader's understanding of its financial condition, changes in financial condition, and results of operations. Generally, the discussion should cover the 3 year period covered by the financial statements and should use year-to-year comparisons or other formats ~~that, which~~ in the applicant's judgment, enhance a reader's understanding. However, where trend information is relevant, reference to the ~~5five-~~ year selected financial data appearing in subsection (b) ~~above~~ may be necessary.
 - ii) The purpose of the discussion and analysis should be to provide to investors and other users information relevant to an assessment of the financial condition and results of operations of the applicant as determined by evaluating the amounts and certainty of cash flows from operations and from outside sources. The information provided in this subsection need only include that which is available to the applicant without undue effort or expense and ~~which~~ does not clearly appear in the applicant's financial statements.
 - iii) The discussion and analysis should specifically focus on material events and uncertainties known to management ~~that~~~~which~~ would cause reported financial information not to be necessarily indicative of future operating results or ~~of~~ future financial condition. This would include description

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and amounts of matters [thatwhich](#) would have an impact on future operations and have not had an impact in the past, and matters [thatwhich](#) have had an impact on reported operations and are not expected to have an impact upon future operations.

- iv) Where the consolidated financial statements reveal material changes from year to year in one or more line items, the causes for the changes should be described to the extent necessary to an understanding of the applicant's business as a whole; provided, however, if the causes for a change in one line item also relate to other line items, no repetition is required and a line-by-line analysis of the financial statements as a whole is not required or generally appropriate. Applicants need not recite the amount of changes from year to year [thatwhich](#) are readily computable from the financial statements. The discussion should not merely repeat numerical data contained in the consolidated financial statements.
- v) The term "liquidity" as used in subsection (c)(1)(A) [above](#) refers to the ability of an enterprise to generate adequate amounts of cash to meet the enterprises' needs for cash. Except where it is otherwise clear from the discussion, the applicant should indicate those balance sheet conditions or income or cash flow items [thatwhich](#) the applicant believes may be indicators of the liquidity condition. Liquidity generally should be discussed on both a long-term and short-term basis. The issue of liquidity should be discussed in the context of the applicant's own business or businesses.
- vi) Applicants are encouraged, but not required, to supply forward-looking information. This is to be distinguished from presently known data [thatwhich](#) will have an impact upon future operating results, such as known future increases in rates or other costs. This latter data is required to be disclosed.
- vii) Applicants [thatwhich](#) elect to provide narrative explanations of supplementary information disclosed in

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accordance with SFAS 89, as referred to in subsection (b)(3)(C) ~~above~~, may combine the explanations with their discussion and analysis required pursuant to this provision or they may supply the information separately. If the information is combined, it shall be located in reasonable proximity to the discussion and analysis. If the information is not combined, the discussion of the impact of inflation otherwise required by this subsection may be omitted if there is an appropriate ~~cross-reference~~ cross-reference to the explanations provided pursuant to SFAS 89, as referred to in subsection 1075.2370(b)(3)(C).

- viii) Applicants which elect not to provide explanations of supplementary information disclosed in accordance with SFAS 89 may discuss the effects of inflation and changes in prices in whatever manner appears appropriate under the circumstances. Although voluntary compliance with SFAS 89 is encouraged, all that is required is a brief textual presentation of management's views. No specific numerical financial data need be presented.
- ix) All references to the applicant in the discussion and in these instructions shall mean the applicant and its consolidated subsidiaries.

- 2) If interim-period financial statements are included or are required to be included by Section 1075.2440, a management's discussion and analysis of the financial condition and results of operations shall be provided to enable the reader to assess material changes in financial condition and results of operations between the period specified in subsection (c)(2)(A) and (B) ~~below~~. The discussion and analysis shall include a discussion of material changes in those items specifically listed in subsection (c)(1) ~~above~~, except that the impact of inflation and changing prices on operations for interim periods need not be addressed.

- A) Material changes in financial condition. Discuss any material changes in financial condition from the end of the preceding fiscal year to the date of the most recent interim balance sheet provided. If the interim financial statements include an interim balance sheet as of the corresponding interim date of the preceding fiscal year,

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any material change in financial condition from that date to the date of the most recent interim balance sheet provided shall also be discussed. If discussions of changes from both the end and the corresponding interim date of the preceding fiscal year are required, the discussions may be combined at the discretion of the applicant.

- B) Material changes in results of operations. Discuss any material changes in the applicant's results of operations with respect to the most recent fiscal year-to-date period for which an income statement is provided and the corresponding year-to-date period of the preceding fiscal year. If the applicant is required to or has elected to provide an income statement for the most recent fiscal year quarter, the discussion also shall cover material changes with respect to that fiscal quarter and the corresponding fiscal quarter in the preceding fiscal year. In addition, if the applicant has elected to provide an income statement for the 12-month period ended as of the date of the most recent interim balance sheet provided, the discussions shall also cover material changes with respect to that 12-month period and the 12-month period ended as of the corresponding interim balance sheet date of the preceding fiscal year.
- C) In completing subsection (c)(2)-~~above~~, the following instructions shall apply:
- i) If interim financial statements are presented together with financial statements for full fiscal years, the discussion of the interim financial information shall be prepared pursuant to subsection (c)(2) ~~above~~ and the discussion of the full fiscal year information shall be prepared pursuant to subsection (c)(1)-~~above~~. Such discussions may be combined.
 - ii) The discussion and analysis required by subsection (c)(2) ~~above~~ is required to focus only on material changes. Where the interim financial statements reveal material change from period to period in one or more significant line items, the causes for the changes should be described if they have not already been disclosed; however, if the

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causes for a change in one line item also relate to other line items, no repetition is required. Applicants need not recite the amounts of changes from period to period ~~that~~which are readily computable from the financial statements. This discussion should not merely repeat numerical data contained in the financial statements. The information provided should include that which is available to the applicant without undue effort or expense and ~~which~~ does not clearly appear in the applicant's interim financial statements.

- iii) The applicant's discussion of material changes in results of operations should identify any significant elements of the applicant's income or loss from continuing operations ~~that~~which do not arise from, or are not necessarily representative of, the applicant's ongoing business.
- iv) Applicants are encouraged, but are not required, to discuss forward-looking information.

d) Lending activities.

- 1) Briefly describe the applicable federal and State restrictions on the lending activities of the applicant, including applicable laws affecting mortgage loan interest rates. Also briefly describe the applicant's general policy concerning loan-to-value ratios; customary methods of obtaining loan originations, such as the use of loan consultants; approval of properties as security for loans; the use of a loan committee, if any; and policies as to requiring title, fire insurance, and casualty insurance on security properties. Indicate the applicant's general future intentions with respect to activities in secondary mortgage markets, including transactions with the Federal Home Loan Mortgage Corporation or mortgage bankers. If significant, indicate loan service fee income as a percentage of net interest income for the years required by Section 1075.2440(b).
- 2) As to the lending area of the applicant, describe briefly:
 - A) the lending area restrictions, if any, applicable to the applicant;_;
 - B) the areas in which the applicant normally lends;_; and

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- C) any material loan concentration areas of the applicant. The descriptions may include maps illustrating one or more of these areas. Furnish an estimate of the housing vacancy rates in areas where the applicant's loan concentrations are located, if practicable.
- 3) Describe briefly the general long-term nature of investment in mortgage loans and the consequent effect upon the earnings spread of savings institutions. State the normal maturity of loans made by the applicant on the security of single-family dwellings and furnish an estimate as to the average length of time the loans are outstanding.
- 4) For each of the periods required by Section 1075.2440(b), set forth in tabular form, excluding fees ~~that~~^{which} are not considered adjustments of yield, the following:
- A) Average yield during the period, computed on no greater than a monthly basis, on:
- i) loan portfolio;
 - ii) investment portfolio;
 - iii) other interest-earning assets; and
 - iv) all interest earning assets.
- B) Average rate paid during the period, computed on no greater than a monthly basis, on:
- i) deposits_;
 - ii) borrowings and Federal Home Loan Bank advances_;
 - iii) other interest-bearing liabilities_; and
 - iv) all interest-bearing liabilities (subsection (d)(4)(A)(i), (ii), and (iii)-~~above~~).

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- C) Weighted-average yield at end of the latest required period, for the items in subsection (d)(4)(A) and (B)-~~above~~.
- D) The net yield on average interest-earning assets (net interest earnings divided by average interest-earning assets with net interest earnings equaling the difference between the dollar amount of interest earned and paid). Average interest-earning assets should be determined on an interval no more frequent than monthly.
- E) For each of the periods required by Section 1075.2440(b), set forth in tabular form:
- i) the dollar amount of change in interest income, and
 - ii) the dollar amount of change in interest expense. The changes should be segregated for each major category of interest-earning asset and interest-bearing liability (as stated in subsection (d)(4)(A) and (B)-~~above~~) into amount attributable to changes in volume change (change in volume multiplied by old rate), and changes in rates (change in rate multiplied by old volume), and changes in rate-volume (change in rate multiplied by the change in volume). The rate/volume variances should be allocated on a consistent basis between rate and volume variance and the basis of allocation disclosed in a note to the table.
- 5) For each of the periods required by Section 1075.2440(b), present the following:
- A) Return on assets (net income divided by average total assets).
 - B) Return on equity (net income divided by average equity).
 - C) Equity-to-assets ratio (average equity divided by average total assets).
 - D) Applicants should supply any additional ratios necessary to explain their operations.

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- 6) Loans:
- A) As of the end of the latest fiscal year reported on, present separately the amounts of loans in the categories of real estate mortgages, real estate construction, installment, and commercial, financial and agricultural ~~that~~which are due:
- i) In each of the ~~3~~three years following the balance sheet;
 - ii) after ~~3~~three through ~~5~~five years;
 - iii) after ~~5~~five through ~~10~~ten years;
 - iv) after ~~10~~ten through ~~15~~fifteen years; and
 - v) after ~~15~~fifteen years. In addition, present separately the total amount of all such loans due after one year ~~that~~which have predetermined interest rates and floating or adjustable interest rates.
- B) In completing subsection (d)(6)(A) ~~above~~, the following shall apply:
- i) Scheduled principal repayments should be reported in that maturity category in which the payment is due.
 - ii) Demand loans, loans having no stated schedule of repayments and no stated maturity, and overdrafts should be reported as due in one year or less.
 - iii) Determinations of maturities should be based upon contract terms. However, ~~thesuch~~ terms may vary due to the applicant's "rollover policy," in which case the maturity should be revised as appropriate and the rollover policy should be briefly discussed.
- 7) Describe briefly the risk elements within the loan and investment portfolios including the applicant's customary procedures regarding delinquent loans. As of the end of each of the periods covered by the statements of operation required by Section 1075.2440(b)(1) and as of the

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date of the latest statement of financial condition required by Section 1075.2440(a), set forth in tabular form the amounts and categories of non-accrual, past due, restructured, and potential problem loans (see Securities and Exchange Commission's Securities Act Industry Guide 3, Section III C) and the ratio of such loans to total assets. Where the amount of real estate that has been in substance foreclosed, acquired by foreclosure, or by deed in lieu ~~of foreclosure~~ ~~thereof~~ is significant, include a brief description of the major properties and a statement as to the applicant's probable losses, if any, upon disposition of such properties.

e) Savings activities.

- 1) State whether the maximum rate of interest ~~that~~ ~~which~~ the applicant may pay is established by regulatory authorities. State that, in the event of liquidations of the applicant after conversion, savings account holders will be entitled to full payment of their accounts before payment to shareholders. Also indicate the percentage of total savings accounts ~~that~~ ~~which~~ are from out-of-state sources, if ~~the~~ ~~such~~ total is significant.
- 2) Set forth in tabular form the amounts of time deposit accounts by categories of interest rates as of the dates of each balance sheet filed. Each interest-rate category should not be more than 200 basis points. As of the date of the latest balance sheet, set forth in tabular form for each interest-rate category, the amounts of savings maturing during each of the three years following the balance sheet date and the total maturing thereafter.
- 3) Disclose the weighted-average rate and general terms (as well as formal provisions for the extension of the maturity) of each category of short-term borrowings, along with the maximum amount of borrowings in each category outstanding at any month-end during each period for which an end-of-period balance sheet is required. In addition, disclose the approximate average short-term borrowings outstanding during the period and the approximate weighted-average interest rate (and a brief description of the means used to compute such average) for ~~the~~ ~~such~~ aggregate short-term borrowings. The disclosure required by this subsection need not be furnished as regards borrowings in each particular category when the aggregate amount of such borrowings at the balance sheet date does not exceed one percent of assets at that date. Notwithstanding this reporting threshold, if the weighted average of

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~~thesueh~~ borrowings at year-end, the disclosure called by this subsection should be furnished. This information is not required to be given for any category of short-term borrowings for which the average balance outstanding during the period was less than 30%~~percent~~ of stockholders equity at the end of the period.

- f) Federal regulation. Describe briefly, to the extent not otherwise covered by other items, federal regulation of the applicant and the conduct of its operations. In particular, describe briefly the insurance of accounts and the general regulatory authority of the Federal Deposit Insurance Corporation, and federal regulatory capital requirements~~;~~ the results of failure to meet those requirements~~;~~ and the applicant's regulatory capital position in relation to those requirements. Also, describe the assessment authority and requirements of the Federal Deposit Insurance Corporation, the Financing Corporation, and the Resolution Funding Corporation.
- g) Federal Home Loan Bank System. If a member, describe briefly the Federal Home Loan Bank System and state that the applicant is a member. ~~TheSueh~~ description shall include:
- 1) Limitations on borrowings~~;~~
 - 2) Recent loan policies of the applicant's Federal Home Loan Bank and current interest rates~~;~~ and
 - 3) Federal Home Loan Bank stock purchase requirements and the applicant's position with respect to those requirements.
- h) State regulation. Describe briefly, to the extent not otherwise covered by other items, State regulation of the applicant and the conduct of its operations. In particular, describe briefly the general regulatory authority of the ~~DirectorCommissioner~~, and State regulatory capital requirements, the results of failure to meet those requirements, and the applicant's regulatory capital position in relation to those requirements (Section 5001 of the Act and Section 1075.410). Also describe the supervisory fee assessment authority and requirements of the ~~DirectorCommissioner~~.
- i) Federal and state taxation. Describe briefly the federal income tax laws applicable to the applicant including:

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- 1) Permissible bad debt reserves;
 - 2) The applicant's position with respect to the maximum bad debt reserve limitations as of the date of the latest statement of financial condition required under Section 1075.2440(a);
 - 3) Future increases in the effective income tax rate;
 - 4) The date through which the applicant's federal income tax returns have been audited by the Internal Revenue Service; and
 - 5) The tax effect to the applicant of the payment of cash dividends on capital stock of the applicant after conversion. Also describe briefly the State taxation of the applicant.
- j) Competition. Describe the material sources of competition for savings banks generally and indicate to the extent practicable the applicant's position in its principal lending and deposit markets. In answering [this](#) subsection, give to the extent known the applicant's deposit and mortgage product market shares by county in its geographic market. Also indicate its rank and any material changes or trends in its competitive standing.
- k) Office and other material properties.
- 1) Furnish the location of the applicant's home office and each existing and approved branch office and other office facilities (such as mobile or satellite offices). State the total net book value of all [its](#) offices as of the date of the latest statement of financial condition required by Section 1075.2440(a). If any [such](#) office is leased, state the expiration dates of [those](#) leases.
 - 2) Describe briefly undeveloped land owned by the applicant, including location, net book value, and prospective use and holding period. If the applicant or a subsidiary owns or leases electronic data processing equipment principally for its own use, describe briefly [the](#) equipment indicating net book value if owned or the principal lease terms if leased.
- l) Employees. State the number of persons employed full time by the applicant including executive officers listed under Section 1075.2350. State whether employees are represented by a collective bargaining group and whether the

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applicant's relations with its employees is satisfactory. Summarize briefly any loans, profit sharing, retirement, medical, hospitalization or other remuneration plans provided for employees not already included pursuant to Section 1075.2360.

- m) Service corporations. Describe briefly the applicant's investment in any subsidiary and the major lines of business (including any joint ventures) of the subsidiary ~~that~~^{which} are material to its operations.
- n) Legal proceedings. Furnish the information regarding legal proceedings required to be disclosed in a registration statement filed under the Securities Exchange Act of 1934 (15 ~~USC U.S.C.~~ 78a et seq., as amended to July 1, 1991, no subsequent dates or editions). In particular, see Item 103 of the "General Rules Regarding Disclosures: Regulations S-K – Standard Instructions for Filing Forms under Securities Act of 1933 and the Securities Exchange Act of 1934" (17 CFR 229.103) November 1992, no subsequent dates or editions, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Unless the context otherwise requires, the word "registrant" in that regulation shall refer to the applicant.
- o) Additional information. The ~~Director Commissioner~~ may upon the request of applicant, and where consistent with the protection of account holders and others, permit the omission of any of the information required by this Section or the furnishing in substitution therefor of appropriate information of comparable character. The ~~Director Commissioner~~ may also require the furnishing of other information in addition to, or in substitution for, the information required by this Section in any case ~~in which the~~^{where such} information is necessary or appropriate for an adequate description of the applicant's business done or intended to be done.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2380 Proxy Statement – Description of the Plan of Conversion

- a) A statement to the following effect shall be inserted in the proxy statement immediately preceding the information required by this Section: "The ~~Director Commissioner~~ of Banks and Real Estate has given approval to the plan of conversion, subject to its approval by members and the satisfaction of certain other conditions. However, ~~such~~ approval by the ~~Director Commissioner~~ does not constitute a recommendation or endorsement of the plan by the ~~Director Commissioner~~".

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- b) The proxy statement shall contain a description of the plan of conversion. ~~The~~~~Such~~ description shall contain the information required by subsections (c) through (j) ~~below~~ and ~~such~~ additional information as may be necessary to accurately describe the material provisions of the plan.
- c) Briefly describe the effects of conversion from a mutual institution to a stock institution including the following information:
- 1) State that deposit accounts of the applicant will not be affected by the conversion with respect to such matters as balances in the accounts and the extent of insurance of accounts by the Savings Association Insurance Fund or the Bank Insurance Fund, as the case may be;
 - 2) State that deposit and borrowing members of the applicant will not continue to have voting rights in the applicant after conversion and that the members of the stock savings bank shall be only the owners of its capital stock;
 - 3) State the present liquidation rights of account holders and describe the liquidation account to be established and maintained by the applicant, including the conditions under which ~~the~~~~such~~ account will be paid, the interest of eligible account holders in ~~the~~~~such~~ account and the formula by which ~~the~~~~such~~ account will be adjusted;
 - 4) State that the rights and obligations of borrowers from the applicant will not be changed in any manner;
 - 5) State that capital stock to be sold by the applicant will not be insured by the Savings Association Insurance Fund or the Bank Insurance Fund, as the case may be;
 - 6) State that none of the assets of the applicant will be distributed in order to effect the conversion other than to pay expenses incident to the conversion~~thereto~~; and
 - 7) State briefly the reasons why management is recommending the conversion, including any advantages to the community served by the applicant.

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- d) With respect to the subscription rights of members, furnish the following information:
- 1) The formula to be used for determining the subscription rights of account holders to purchase shares;
 - 2) Any optional provisions included in the plan of conversion pursuant to Section 1075.1925 for the purchase of shares of capital stock;
 - 3) The allocation formulas to be used when there is an oversubscription of shares at any time during the sale of stock under the plan of conversions; and
 - 4) The use and time of the order forms with respect to the exercise of subscription rights.
- e) Offering price range:
- 1) Set forth on a per-share basis the estimated public offering price range of the shares of capital stock to be sold pursuant to the plan of conversion, except that an estimated price range is not required to be stated if the offering of stock is not to begin until after the meeting of members to vote on the plan of conversion;
 - 2) State that the offering price will be the "pro forma" market value of [thesueh](#) shares as determined by the applicant's management and the underwriter, as the case may be; and
 - 3) State that all the shares are required to be sold.
- f) Earning and book value per share:
- 1) Unless the offering of stock is not to begin until after the meeting of members to vote on the plan of conversion, discuss:
 - A) the earnings per share of the capital stock to be sold on a "pro forma" basis as of the most recent year-end and interim period required by Section 1075.2440(a); and
 - B) the book value per share on a "pro forma" basis as of the most

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recent year-end and interim period required by Section 1075.2440(a).

- 2) In completing subsection (f)(1) ~~above~~, the following shall apply:
 - A) Earnings and book value per share shall be furnished without giving effect to the estimated net proceeds from the sale of the capital stock and then after giving effect to ~~those~~ proceeds, with all assumptions used clearly stated.
 - B) In computing "pro forma" earnings, the applicant shall use the arithmetic average of the:
 - i) average yield on all interest-earning assets (Section 1075.2370(d)(4)(A)(iv)); and
 - ii) average rate paid on deposits (Section 1075.2370(d)(4)(B)(i)).
 - C) If significant changes in interest rates occur during the period presented, the ~~Director~~ ~~Commissioner~~ will consider permitting alternative computations proposed by an applicant that are properly supported.
 - D) An appropriate statement should be included which explains that the "pro forma" data should not be relied upon as indicative of the actual financial position or results of continuing operations that will be experienced by the applicant after its conversion.
- g) State the proposed beginning and ending dates of the subscription period and describe any provisions in the plan of conversion related to the timing or extension of the subscription period. Also, state:
 - 1) That a maximum subscription price will be set forth in the offering circular used for offering of subscription rights,
 - 2) That the actual subscription price will be the public offering price;
 - 3) That the actual subscription price will not exceed the maximum subscription price shown on the order form; and

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- 4) That any difference between the maximum and actual subscription prices will be refunded unless the subscribers affirmatively elect to have the differences applied to the purchase of additional shares of capital stock.
- h) Furnish the following information:
- 1) Describe to the extent practicable the applicant's present intentions with respect to listing the capital stock on an exchange or otherwise providing a market for the purchase and sale of the capital stock in the future;
 - 2) Describe briefly the tax effect of the conversion both to the applicant and to the various classes of account holders receiving nontransferable subscription rights to purchase capital stock in the conversion; and
 - 3) State that the plan of conversion is attached as an exhibit to the proxy statement (or will be made available on request if the summary proxy statement provided for by Section 1075.1925 is being used) and should be consulted for further information.
- i) State whether the plan of conversion provides for:
- 1) unsubscribed capital stock to be offered to the public through underwriters or directly by the converting savings bank. If [this](#) is the case, provide the information to the extent known required by Section 1075.2580 and indicate the estimated timing of the proposed offering; and
 - 2) the purchase by any person or group of any insignificant residue of shares remaining at the conclusion of the offering.
- j) Furnish the following information in tabular form regarding proposed purchases of capital stock involving [organization](#) directors and officers of the applicant:
- 1) State the total number of shares proposed to be purchased by all officers, directors and their affiliates as a group without naming them.
 - 2) As to each officer and [organization](#) director named in Section 1075.2350(a), name him or her, state his or her position, and the number of shares proposed to be purchased by him or her.

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- 3) As to any officer, organization director or affiliate of the organization~~thereof~~ who proposes to purchase 1%~~percent~~ or more of the total number of shares of capital stock of the applicant to be outstanding, name him or her, state his or her position, and the number of shares proposed to be purchased by him or her.
- 4) With respect to the information required by subsections ~~subsection~~ (j)(1), (2) and (3)~~above~~, indicate separately the number of shares proposed to be purchased in each offering category.
- 5) With respect to the information requested as to affiliates of officers, ~~the~~such information is required only to the extent known. In a case where ~~the~~such confirmation is not obtainable, only the number of shares ~~that~~which the affiliate is given subscription rights to purchase need be disclosed.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2400 Proxy Statement – Capitalization

- a) Set forth in substantially the tabular form indicated below the dollar amounts of the capitalization of the applicant. Captions in the following form ~~below~~ may be modified as appropriate.

	(A)	(B)	(C)
	<u>Capitalization as of Most Recent Balance Sheet Date</u>	<u>Pro forma adjustments as a Result of Conversion</u>	<u>Pro forma Capitalization, After Giving Effect to the Conversion</u>
<hr/>			
<u>Deposits</u>			
<u>FHL bank advances</u>			
<u>Other</u>			
<hr/>			
<u>Borrowings</u>			
<u>Capital Stock</u>			
<u>Preferred stock</u>			

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Paid-in capital	
<u>Retained earnings:</u>	
Restricted	
Unrestricted.....	
<hr/>	
Total.....	

- b) In furnishing the information required by subsection (a)-above, the following shall apply:
 - 1) With respect to capital stock, indicate in the table or in a footnote the total number of shares to be authorized, the par or stated value of such shares, and the number of shares to be sold as part of the conversion.
 - 2) With respect to the funds to be received by the applicant from the sale of its capital stock, indicate in the table the estimated total amount of funds to be obtained, and in a footnote, state the price per share used in making the estimate. The total amount and price per share shall be clearly identified as being estimates.
 - 3) With respect to Column A, the applicant should use the most recent balance sheet date required by Section 1075.2450.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2440 Proxy Statement – Financial Statements

This Section specifies the consolidated balance sheets, the consolidated statements of income, the consolidated statements of cash flows, and stockholders' equity required to be included in the proxy statement. If the applicant has previously used an audit period in connection with its certified financial statements ~~that which~~ does not coincide with its fiscal year, ~~that such~~ audit period may be used in place of any fiscal year requirements provided it covers a full 12 ~~twelve~~ months' operations and is used consistently.

- a) Consolidated balance sheets.
 - 1) There shall be furnished for the applicant and its subsidiaries consolidated,

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- audited balance sheets as of the end of each of the ~~2 two~~-most recent fiscal years.
- 2) If the latest balance sheets furnished under subsection (a)(1) ~~above~~ are in excess of 135 days before the date of the Director's Commissioner's approval of the conversion, there shall be furnished an interim balance sheet as of a date within 135 days after ~~this such~~ approval. This interim balance sheet need not be audited.
- b) Consolidated statements of income and cash flows.
- 1) There shall be furnished for the applicant and its subsidiaries and predecessors consolidated, audited statements of income and cash flows for each of the ~~3 three~~-fiscal years preceding the date of the most recent balance sheet furnished. Notwithstanding the requirement of submitting consolidated statements for the preceding ~~3 three~~-fiscal years, if the applicant would qualify as a "Small Business Issuer" under U.S. Securities and Exchange Commission Regulation S-B, 17 CFR 226, the applicant may furnish consolidated statements for the periods that would be required of a small business issuer if the applicant complies with all other provisions of Sections 1075.2370 and 1075.2440 and includes a ~~2 two~~-year balance sheet in its proxy statement and offering circular.
- 2) In addition, for any interim period between the latest audited balance sheet and the date of the most recent interim balance sheet being filed, and for the corresponding period of the preceding fiscal year, statements of income and cash flows shall be furnished. The interim financial statements may be unaudited.
- c) Changes in stockholders' equity. An analysis of the changes in each caption of stockholders' equity presented in the balance sheets shall be given in a note or separate statement. This analysis shall be presented in the form of a reconciliation of the beginning balance to the ending balance for each period for which an income statement is required to be furnished, with all significant reconciling items described by appropriate captions.
- d) Financial statements of business acquired or to be acquired. There shall be furnished the information required by 17 CFR 210.3-05 and 17 CFR 210.11-01 to 210.11-03, 1992, no subsequent dates or editions, regarding business acquired or to be acquired.

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- e) Separate financial statements of subsidiaries not consolidated and ~~50%percent~~ or less owned persons. There shall be furnished the information required by 17 CFR 210.3-09 regarding separate financial statements of subsidiaries not consolidated and ~~50%percent~~ or less owned persons.
- f) Filing of other statements in certain cases. The ~~Director Commissioner~~ may, upon the request of the applicant, and where consistent with the protection of account holders and others, permit the omission of one or more of the statements required or the filing ~~in substitution therefor~~ of ~~substitute~~ appropriate statements of comparable character. The ~~Director Commissioner~~ may also require the inclusion of other statements in addition to, or in substitution for, the statements ~~herein~~ required in any case ~~in which the where such~~ statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of account holders and others.

(Source: Amended at 30 Ill. Reg. _____, effective December 1, 2006)

Section 1075.2450 Proxy Statement – Consents of Experts and Reports

- a) The proxy statement shall briefly describe all consents of experts filed pursuant to Section 1075.2210(g).
- b) The statement shall contain a report of the independent public accountants who have certified the financial statements and other matters in the statement.
- c) Subsections (a) and (b) ~~above~~ require only a brief summary of the provisions ~~that which~~ are permitted from an investment standpoint and a voting standpoint. A complete legal description of the provision referred to is not required and should not be given. Do not set forth the provision verbatim; only a succinct resume is required.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2460 Proxy Statement – Attachments

There shall be attached to the proxy statement distributed to members and others a copy of the applicant's plan of conversion as approved by the ~~Director Commissioner~~ unless the proxy statement contains a provision indicating that the plan of conversion will not be provided unless

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the recipient so requests within a specified period by a postage-paid postcard or other written communication.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2520 Offering Circular – Certain Named Persons – Filing of Written Consent Required

If any person who has not signed an application is named in the offering circular as about to become an organization a director, the written consent of this person shall be filed with the Director Commissioner in the form the Director Commissioner prescribes.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2550 Offering Circular – Statement Required in Offering Circulars

There shall be set forth on the outside cover page of every offering circular the following statement in capital letters printed in bold-face Roman type at least as large as 10ten-point modern type and at least 2 two-points leaded: "These shares have not been approved or disapproved by the Illinois-Director Commissioner of the Division of BankingBanks and Real Estate, nor has the Director Commissioner passed upon the accuracy or adequacy of this offering circular. Any representation to the contrary is unlawful."

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2560 Offering Circular – Preliminary Offering Circular

The outside front cover page of any preliminary offering circular shall bear, in red ink, the caption "Preliminary Offering Circular", the date of its issuance, and the following statement printed in type as large as that used generally in the body of the such-offering circular:

"This offering circular has been filed with the Director Illinois-Commissioner of Banks and Real Estate, but has not been authorized for use in final form. Information contained in this offering circular herein is subject to completion or amendment. The shares covered hereby may not be sold, nor may offers to buy be accepted, before the time the offering circular is declared effective by the Director Commissioner. The offering circular shall not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these shares in any state in which such offer, solicitation or sale would be unlawful before registration or qualification under the securities laws of that any such-state."

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.2580 Offering Circular – Information with Respect to Public Offering or Direct Community Offering

Each offering circular shall describe the material terms of the plan or plans of distribution for all unsubscribed shares of capital stock to the extent ~~the such~~ description is not already in the proxy statement, including the following:

- a) If the shares are to be offered through underwriters, the outside front cover page of both offering circulars shall give the information called for by this subsection. In the case of the offering circular for any public offering, ~~the such~~ information shall be given in substantially the tabular form set forth ~~in this subsection below~~. In any other case, the information may be given in narrative form. If the information is not known at the time of the subscription offering, so state and estimate.

	<u>Price to Public</u>	<u>Underwriting Discounts and Commissions</u>	<u>Proceeds to Applicant</u>
Per Share.....	\$	\$	\$
Total.....	\$	\$	\$

- b) An offering circular for a public offering or direct community marketing, where the plan of conversion does not contain the optional provision permitted by Section 1075.1925(g), may omit the description relating to the exercise of subscription rights required by Section 1075.2570.
- c) If any shares are to be offered through underwriters, the offering circular for the public offering shall state the names of the principal underwriters and the respective amounts underwritten by each. The names of the principal underwriters other than the managing underwriters and the respective amounts to be underwritten may be omitted from the offering circular for the subscription offering, unless the plan of conversion contains the optional provision permitted by Section 1075.2935(g). Each offering circular shall identify each principal

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underwriter having a material relationship to the applicant and state the nature of the relationship. Each offering circular shall state briefly the nature of the underwriter's obligation to take the unsubscribed shares.

- d) The offering circular for the public offering shall state briefly the discounts and commissions to be allowed or paid to dealers in connection with the sale of the unsubscribed shares. ~~This Such~~ information may be omitted from the offering circular for any subscription offering, unless the plan of conversion contains the optional provision permitted by Section 1075.1925(g).
- e) If any shares are to be offered through underwriters, the offering circular for the public offering shall identify any principal underwriter that intends to confirm sales to any accounts over which it exercises discretionary authority and include an estimate of the number of shares so intended to be confirmed. ~~The Such~~ information may be omitted from the offering circular for any subscription offering. With respect to this subsection, the following shall apply:
- 1) Commissions include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings made with or for the benefit of any persons in which any underwriter or dealer is interested, in connection with the sale of the shares.
 - 2) Only commissions paid by the applicant in cash are to be included in the table. Any other consideration to the underwriters shall be set forth following the table with a reference ~~thereto~~ in the second column of the table. Any finder's fees or similar payments shall be appropriately disclosed.
 - 3) All that is required as to the nature of the underwriters' obligation is whether the underwriters are, or will be, committed to take and to pay for all the shares if any are taken, or whether it is merely an agency of "best efforts" arrangement under which the underwriters are required to take and pay for only ~~the such~~ shares ~~as~~ they may sell to the public. Conditions precedent to the underwriters' taking the shares, including customary "market outs," need not be described. If a "best efforts" arrangement is used, describe any standby commitments for shares not sold.
- f) If any shares are to be sold by the converting savings bank through a direct community marketing, indicate the timing of the offering, the geographical area where the offering will be made, the method to be employed to market the shares,

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including the frequency and nature of communications or contracts with potential purchasers, any preferences that will be given any such geographical area or class of potential purchasers, and the limitations on purchases by potential purchasers.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART P: HIGH RISK HOME LOANS

Section 1075.3000 Definitions

"Approved Credit Counselor" means a credit counselor as approved by the Director of the Division Department of Financial Institutions of the Department of Financial and Professional Regulation.

"Good faith" means honesty in fact in the conduct of the transaction.

"High risk home loan" means a home equity loan on residential real property in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the 15th fifteenth-day of the month immediately preceding the month in which the application for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2000), no subsequent amendments or editions are included).

"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not to be used as purchase money for the residence.

"Points and fees" means:

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all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded transaction, not otherwise included in 12 CFR 226.4.

"Servicer" means any entity chartered under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder, or for a licensee's own account, of payments, interests, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.3150 Verification of Ability to Pay Loan

The lender shall verify the borrower's ability to repay the loan in the case of high risk home loans. Such verification shall require, at a minimum, the following:

- a) The borrower prepares and submits to the lender a personal income and expense statement in a form prescribed by the ~~Director Commissioner~~ who may permit the use of other forms such as the URLA (Fannie Mae Form 1003 (10/92), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, DC 20016-2892 and Freddie Mac Form 85 (10/92), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions) and Transmittal Summary (Fannie Mae Form 1077 (3/97), available from Fannie Mae, 3900 Wisconsin Avenue,

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NW, Washington, DC 20016-2892 and Freddie Mac Form 1008 (3/97), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions).

- b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.
- c) A credit report is obtained regarding the borrower.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.3550 Counseling Prior to Perfecting Foreclosure Proceedings

- a) In the event that a high risk home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek consumer credit counseling.
- b) The notice required in subsection (a) shall, at a minimum, include the following language:

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE DIVISION ILLINOIS OFFICE OF BANKS AND REAL ESTATE."

- c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor and the approved consumer credit counselor advises the lender or its agent that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.
- d) If within the 30-day period provided under subsection (c) the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.

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- 1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. No modification of an approved debt management plan can be made without the mutual agreement of the lender or its agent, the approved consumer credit counselor, and the borrower.
- 2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.
- e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.
- f) This Section applies only to high risk home loans as defined by Section 1075.3000.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.3600 Mortgage Awareness Program

- a) The Mortgage Awareness Program is a counseling and educational component that is provided by the Director of the ~~Division~~ Department of Financial Institutions ~~of the Department~~.
- b) The core curriculum of the Mortgage Awareness Program shall include an explanation of:
 - 1) ~~Explanation of the~~ The amount financed;
 - 2) ~~Explanation of the~~ The finance charge;
 - 3) ~~Explanation of the~~ The annual percentage rate;
 - 4) ~~Explanation of the~~ The total payments;
 - 5) ~~Explanation of the~~ The loan costs, including broker's fees, finance charges, points, origination fees;
 - 6) ~~Explanation of the~~ The right of rescission;

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- 7) ~~Explanation of the~~The foreclosure procedures;
 - 8) ~~Explanation of the~~The significant debt ratios, including total debt to income, loan debt to income, and loan debt to value of residence;
 - 9) ~~Explanation of~~The adjustable rate mortgage;
 - 10) ~~Explanation of~~The balloon payments;
 - 11) ~~Explanation of~~The credit options;
 - 12) ~~Explanation of Each~~ each item ~~that which~~ appears on a good faith estimate;
 - 13) ~~Explanation of~~The pre-payment penalties.
- c) Counseling session attendees must also complete a personal income and expense statement and a balance sheet, on forms provided by the ~~Director~~Commissioner.
 - d) Prior to signing a certificate of completion, counselors shall privately discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or may be contemplating, and provide a Third Party Review to establish the affordability of the loan.
 - e) Counseling session attendees must also be given a brochure that contains information covered by the Mortgage Awareness Program.
 - f) Any lender, prior to making a high risk home loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.
 - g) No lender shall offer less favorable loan terms to a borrower due to a borrower's participation in a Mortgage Awareness Program.
 - h) Except as prohibited elsewhere in this Subpart, the borrower may waive participation in the program, provided that ~~the such~~ waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (f) and that the waiver is in writing in a form approved by the ~~Director~~Commissioner.

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.3700 The Director's Commissioner's Authority – Unusually High Rate on Conventional Loans

- a) The Director Commissioner shall review and analyze the default and foreclosure rate data reports submitted under Section 1075.3650.
- b) The reports and their analyses may be used:
 - 1) In setting the scope of a regularly scheduled examination.
 - 2) In setting the scope of a special examination.
 - 3) In comparing the reported information of a savings bank to other savings banks subject to this Act.
 - 4) In comparing the reported information of a savings bank to the reports submitted by savings banks and charters under other Acts.
- c) The Director Commissioner may correspond with a savings bank to seek clarification of information contained in its report and to gather additional data concerning loans in default or loans in foreclosure.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.3750 Third Party Review of High Risk Home Loans

In the case of any high risk home loan, the borrower shall be afforded the opportunity to seek independent review by the Division Office of Banks and Real Estate, of the loan terms, in order to determine affordability of the loan, when and if the General Assembly appropriates adequate funding to the Division Office of Banks and Real Estate specifically for this program.

- a) Every borrower who chooses to participate in the independent review provided in this Section shall submit information requested on the worksheets outlined in Appendix A and B.
- b) The Division Office of Banks and Real Estate shall provide the borrower with a review of the worksheets and shall also inform the borrower of the amount the borrower has available for a monthly mortgage payment based upon the

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borrower's budget.

- c) In addition, the ~~Division Office~~ of Banks and Real Estate shall review loan information pertaining to balloon payments and adjustable interest rates and other items disclosed by the loan documents affecting amount of payment and shall inform the borrower of such items.
- d) The borrower shall receive a copy of the completed forms and shall sign the forms acknowledging receipt. A copy of the written and signed forms shall be submitted to the lender prior to the closing of the loan and shall become a part of the permanent file for the loan.
- e) If, based upon the review, the borrower determines that the loan is not in his or her best economic interest, the reviewer shall so ~~note not~~ this in the completed forms sent to the lender. This determination shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART Q: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATION

Section 1075.4010 Definitions

For purposes of this Subpart:

"Act" means the Savings Bank Act [205 ILCS 205].

"~~Director Commissioner~~" means the ~~Director Commissioner~~ of Banks and Real Estate, or a person authorized by the ~~Director Commissioner~~ to act in the ~~Director's Commissioner's~~ stead.

"Compelling need" means that no other non-confidential source is available to obtain information of equal relevance.

"Complete request" means a request that provides all of the information required in Section 1075.4030 of this Subpart.

"Confidential supervisory information" shall have the same meaning ascribed to that term in Section 9012 of the Act [205 ILCS 205/9012].

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"Person" shall have the same meaning ascribed to that term in Section 1007.90 of the Act [205 ILCS 205/1007.90].

"Relevant" means the requested confidential supervisory information could substantially contribute to the resolution of the issues identified in the pleadings contained within the request.

"Requester" means any person who makes a request for the discovery or disclosure of confidential supervisory information, whether by subpoena, order, or other judicial or administrative process.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.4020 Purpose and Scope

- a) Purpose. The purpose of this Subpart is to establish the procedures and standards by which the ~~Director Commissioner~~ shall determine whether to disclose confidential supervisory information in response to a request for discovery or disclosure of ~~this such~~ information.
- b) Scope. This Subpart applies to requests, whether by subpoena, order, or other judicial or administrative process, for discovery or disclosure of confidential supervisory information prepared or obtained by the ~~Director Commissioner~~ under the Act and any report of examination, visitation or investigation prepared by the state regulatory authority of another state that examines a branch of an Illinois savings bank in that state. This Subpart does not apply to:
 - 1) a request made pursuant to the Freedom of Information Act [5 ILCS 140] (FOIA), provided that, if the information requested constitutes confidential supervisory information, it shall nonetheless be exempt from disclosure pursuant to Section 7(l)(x) of FOIA;
 - 2) a request made by a party to whom the ~~Director Commissioner~~ may furnish confidential supervisory information as permitted in Section 9012 of the Act [205 ILCS 205/9012]; or
 - 3) a request made by a party to whom a savings bank or other financial institution may furnish confidential supervisory information as permitted in Section 9012(b) of the Act [205 ILCS 205/9012].

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(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.4030 Requests for Confidential Supervisory Information

Pursuant to Section 9012 of the Act [205 ILCS 205/9012], a request for confidential supervisory information arising from an adversarial matter, whether by subpoena, order, or other judicial or administrative process, shall be made to the Director~~Commissioner~~. If the request is for a record, the requester must adequately describe the records sought by type and date. The ~~Such~~ request shall be accompanied by:

- a) a copy of the formal complaint or pleading setting forth the assertions of the adversarial matter;
- b) the caption and docket number assigned to the adversarial proceeding;
- c) the name, address, and telephone number of designated legal counsel to each party named in the adversarial proceeding;
- d) a statement detailing the relevance of the requested confidential supervisory information;
- e) a statement detailing a compelling need for the requested confidential supervisory information;
- f) a statement describing any prior judicial decisions or pending motions in the case that may bear on the asserted relevance of the requested information; and
- g) a statement detailing why the requester believes that the compelling need outweighs the public interest considerations in maintaining confidentiality and why the compelling need outweighs the burden on the Division~~Office~~ of Banks and Real Estate to produce the requested confidential supervisory information.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.4040 Where to Submit a Request

A person requesting discovery or disclosure of confidential supervisory information under this Subpart shall mail, or hand deliver, the request to:

Division~~Office~~ of Banks and Real Estate

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Department of Financial and Professional Regulation

Bureau of Residential Finance/Thrift Division
310 South Michigan Avenue, Suite 2130
Chicago, Illinois 60604-4278
Attention: Thrift Legal Counsel

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.4050 Consideration of Requests

- a) Standards for the Disclosure of Confidential Supervisory Information. When making a determination with respect to the disclosure of confidential supervisory information, the Director Commissioner shall consider the following standards:
- 1) the confidential supervisory information identified in the request is relevant;
 - 2) a compelling need exists;
 - 3) if the requested confidential supervisory information is to be used in connection with an adversarial matter, the lawsuit or administrative action has been filed; and
 - 4) the production and disclosure of the confidential supervisory information is not unduly burdensome to the Division Office of Banks and Real Estate.
- b) Director Commissioner Inquiries. In determining whether to disclose the requested confidential supervisory information, the Director Commissioner may inquire into the circumstances of any case underlying the request and rely on sources of information other than the requester, including other parties.
- c) Time Required by the Director Commissioner to Respond. The Director Commissioner, within 15 days, shall determine whether to disclose the requested confidential supervisory information. The 15-day time period shall not commence until the Director Commissioner receives a complete request. If the request is not complete, the Director Commissioner shall notify the requester of the required information that has not previously been provided.
- d) Notice to Other Parties. Following receipt of a complete request for confidential supervisory information, the Director Commissioner may notify the savings bank

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or Illinois savings bank holding company office that is the subject of the requested information, unless the ~~Director~~ ~~Commissioner~~ determines that to do so would advantage or prejudice any of the parties in the matter at issue.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.4060 Disclosure of Confidential Supervisory Information

- a) Conditions and Limitations. The ~~Director~~ ~~Commissioner~~ may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of ~~this such~~ information. Except as authorized by the ~~Director~~ ~~Commissioner~~, no person obtaining access to confidential supervisory information under this Subpart may make a copy of the confidential supervisory information.
- b) Restrictions on Dissemination of Confidential Supervisory Information. The ~~Director~~ ~~Commissioner~~ may condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in the particular case or on a written agreement of confidentiality. In a case in which a protective order or agreement has already been entered between parties other than the ~~Director~~ ~~Commissioner~~, the ~~Director~~ ~~Commissioner~~ may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The ~~Director~~ ~~Commissioner~~ may authorize a party who obtained the records for use in one case to provide them to another party in another case, subject to any conditions that the ~~Director~~ ~~Commissioner~~ may impose on either or both parties.
- c) Notification of Parties and Procedures for Sharing and Using Confidential Supervisory Information in Litigation. The requester shall promptly notify other parties to a case of the release of confidential supervisory information obtained pursuant to this Subpart and, upon entry of a protective order, shall provide copies of confidential supervisory information to the other parties.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.4070 Retrieval and Destruction of Previously Disclosed Confidential Supervisory Information Used in Litigation

At the conclusion of an action:

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- a) the requester shall retrieve the disclosed confidential supervisory information from the judicial or administrative file as soon as the presiding judicial or administrative authority no longer requires the information;
- b) the requester, and each party who may have subsequently received confidential supervisory information pursuant to a protective order, shall destroy the disclosed confidential supervisory information covered by the protective order; and
- c) each party shall certify to the ~~Director~~ ~~Commissioner~~ that the disclosed confidential supervisory information covered by the protective order has been destroyed.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.4080 Fees for Services

- a) The ~~Director~~ ~~Commissioner~~ may charge the following fees for any record search or copying performed by the ~~Director~~ ~~Commissioner~~:
 - 1a) Reproduction costs incurred in making photocopies of documents shall be reimbursed at \$.25 per exposure.
 - 2b) All other costs, including, but not limited to, the cost of telephone calls, telegrams, and shipping incurred in searching for and transporting data pursuant to a request for confidential supervisory information shall be reimbursed at actual costs.
- b) The ~~Director~~ ~~Commissioner~~ may require a requester to remit payment prior to providing the requested confidential supervisory information.

(Source: Amended at 30 Ill. Reg. 19068, effective December 1, 2006)

SUBPART R: PAYDAY LOANS**Section 1075.5000 Purpose and Scope**

This Subpart applies to savings banks chartered under the Savings Bank Act [205 ILCS 205/1001].

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(Source: Added at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.5010 Definitions

"Payday Loan" or "loan" means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone, in which:

A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts one or more checks dated subsequent to the date written and agrees to hold them for deposit; or

A lender accepts one or more authorizations to debit a consumer's account; or

A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment.

"PLRA" means the Payday Loan Reform Act [815 ILCS 122]. Savings Banks are expressly exempt from the provisions of the PLRA.

"Savings Bank" means a savings bank chartered under the Savings Bank Act [205 ILCS 205/1001].

(Source: Added at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.5020 Applicability of Subpart

This Subpart shall apply only to payday loans made by a savings bank. Products and services offered by a savings bank that are not offered by lenders governed by the PLRA shall not be subject to this Subpart.

(Source: Added at 30 Ill. Reg. 19068, effective December 1, 2006)

Section 1075.5030 Issuance of Payday Loans by Savings Banks

- a) A savings bank making a payday loan shall satisfactorily address all safety and soundness considerations identified by the Division of Banking in its examination

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and supervision of the savings bank. Safety and soundness considerations include, without limitation:

- 1) Risk-management practices for payday loan activities, particularly with regard to concentrations of payday loans;
 - 2) Capital adequacy, depending on the level and volatility of risk;
 - 3) Allowance for loan losses to ensure the allowance is adequate to absorb estimated credit losses within the payday loan portfolio;
 - 4) Classification of payday loans, given the unsecured nature of the credit and weakness of repayment capacity inherent in payday loans; and
 - 5) The establishment and maintenance of extension, deferral, renewal and rewrite standards consistent with the PLRA.
- b) In the event the Division of Banking determines the savings bank's management of safety and soundness risks relating to its payday loan portfolio is deficient, the Division of Banking may initiate corrective enforcement action, as authorized under the Savings Bank Act.

(Source: Added at 30 Ill. Reg. 19068, effective December 1, 2006)

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- 1) Heading of the Part: Insurance Companies Originating Payday Loans
- 2) Code Citation: 50 Ill. Adm. Code 902
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
902.10	New Section
902.20	New Section
902.30	New Section
902.40	New Section
902.50	New Section
- 4) Statutory Authority: Implementing and authorized by the Payday Loan Reform Act [815 ILCS 122] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]
- 5) Effective Date of Rulemaking: November 29, 2006
- 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 rulemaking, 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: June 23, 2006; 30 Ill. Reg. 10988
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:

Section 902.50 – On the first and second line, deleted ", including but not limited to those". Also, on the second line, deleted the comma following the bracket and added "or any other provision of the Code or rule" in lieu thereof.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: The Payday Loan Reform Act requires the Department to promulgate regulatory standards that address a number of business practices concerning payday loans. The Division is charged with promulgating standards, only with respect to insurance companies, described as "exempt entities" in Section 1-15(d) of the Act [815 ILCS 122/1-15(d)].
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

James Hanson, Acting Assistant Deputy Director
Financial Regulation
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

217/782-6284

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 902

INSURANCE COMPANIES ORIGINATING PAYDAY LOANS

Section

902.10	Authority
902.20	Purpose and Applicability
902.30	Definitions
902.40	Insurance Companies Originating Payday Loans
902.50	Enforcement

AUTHORITY: Implementing and authorized by the Payday Loan Reform Act [815 ILCS 122] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 30 Ill. Reg. 19283, effective November 29, 2006.

Section 902.10 Authority

This Part is promulgated by the Director of the Department of Financial and Professional Regulation-Division of Insurance under Section 401 of the Illinois Insurance Code [215 ILCS 5/401] that empowers the Director *to make reasonable rules and regulations as may be necessary for making effective* the insurance laws of this State. Further, this Part implements Section 4-30(b) of the Payday Loan Reform Act [815 ILCS 122/4-30(b)] that requires the Secretary to promulgate rules to implement that Act.

Section 902.20 Purpose and Applicability

The purpose of this Part is to establish standards for products and/or services regulated by the Payday Loan Reform Act [815 ILCS 122] when offered by insurance companies. This Part applies to insurance companies, as that term is defined in Section 902.30 of this Part.

Section 902.30 Definitions

Act means the Payday Loan Reform Act [815 ILCS 122].

Code means the Illinois Insurance Code [215 ILCS 5].

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Department means the Illinois Department of Financial and Professional Regulation.

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

Division means the Illinois Department of Financial and Professional Regulation-Division of Insurance.

Insurance Company means one that is organized, chartered, or holding a certificate of authority to do business under the laws of this State or any other state or under the laws of the United States. (See 815 ILCS 122/1-15(d).)

Payday loan or loan means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone, in which:

A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts one or more checks dated subsequent to the date written and agrees to hold them for deposit; or

A lender accepts one or more authorizations to debit a consumer's bank account; or

A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment.

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

Section 902.40 Insurance Companies Originating Payday Loans

All insurance companies offering payday loans, as that term is defined in Section 902.30 of this Part, including any insurance products and/or services that constitute a payday loan, as defined in Section 902.30 of this Part, must offer such products and/or services in a manner consistent with the Act. Insurance companies shall ensure that any payday loan products and/or services are offered in a manner that will not jeopardize the insurance company's financial solvency pursuant to Article IIA of the Code [215 ILCS 5/Art. IIA].

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Section 902.50 Enforcement

The Secretary or Director may take any appropriate regulatory action authorized by Article XXIV of the Code [215 ILCS 5/Art. XXIV] or any other provision of the Code or rule against any insurance company whose products and/or services are inconsistent with the Act or Code.

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- 1) Heading of the Part: Medical Malpractice Data Base
- 2) Code Citation: 50 Ill. Adm. Code 928
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
928.10	Amendment
928.20	Amendment
928.30	Amendment
928.40	Amendment
928.42	New Section
928.EXHIBIT A	Amendment
928.EXHIBIT B	Amendment
928.EXHIBIT C	Amendment
928.EXHIBIT D	New Section
- 4) Statutory Authority: Implementing Section 155.19 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/155.19 and 401]
- 5) Effective Date of Rulemaking: December 4, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: February 10, 2006; 30 Ill. Reg. 1676
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:
 - a) In the table of contents, for Exhibit A, delete "Circuit Court Clerk Paper Reporting Format" and add "Illinois Medical Professional Liability Insurance Uniform Claims Data Entry Reporting Screen".
 - b) In the table of contents, for Exhibit B, add "Illinois Medical Professional Liability Insurance Uniform Claims Report – Reporting Instructions", and

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strike "Illinois Medical Liability Paid and Closed Insurance Claims Report" and delete "(Repealed)".

- c) In the table of contents, for Exhibit C, add "Illinois Medical Professional Liability Insurance Uniform Claims Reporting (IMPLIUCR) – Data Entry Navigational User's Guide", and strike "Illinois Medical Liability Insurance Uniform Claims Report Instructions" and delete "(Repealed)".
- d) In the table of contents, add "928.EXHIBIT D Illinois Medical Professional Liability Insurance Uniform Claims Reporting (IMPLIUCR) – Batch Reporting Requirements and Navigational User's Guide".
- e) Section 928.20(a), on the last line, add "and as defined in Section 928.30 of this Part" following the citation.
- f) Section 928.30 – in the definition of "Department", on the second line, delete "- Division of" and strike "Insurance".
- g) Section 928.30 – in the definition of "Insurance Claim", in the last sentence, add "or eligible to be paid" following "payable".
- h) Section 928.30 – in the definition of "Insurance Claim Closed", on the second line, add "all indemnity and/or expense payments have" following "which" and strike "final payment has".
- i) Section 928.30 – in the definition of "Other Entity", on the third line, add "and" following "or".
- j) Section 928.40(a), (b), (c), (d) and (e), on the third line, add "set forth in Exhibits A through D of this Part, filed electronically," following "information". Strike the last sentence.
- k) Section 928.40(c), on the second line, change "(a)" to "(b)".
- l) Section 928.40(f), on the third line, add a comma following "quarter". On the fourth line, add "updates and/or status changes that occurred in that quarter to all" following "all". On the last line, strike "or closed in that" and delete "quarter".

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- m) Section 928.42(a), on the first line, add "report to the Secretary or Director," following "shall" and delete "provide". On the second line, add a comma following "malpractice". On the third line, delete "to the Secretary or Director,", change "a" to "an", and delete "specified" as well as "if available".
- n) Section 928.42(a)(2), on the second line, change the comma following "MI" to a period and change the second comma following "Designation" to a semicolon.
- o) Section 928.42(a)(3), on the second line, change the comma to a period after "MI" and add a semicolon as well.
- p) Section 928.42(a)(6), (7), and (8), delete ", maximum = 8 characters".
- q) Section 928.42(a)(9), at the end of the list, following "(9)" add "Voluntary Dismissals; (10) Involuntary Dismissals; (11)", delete "including Dismissals" and add "Actions" in lieu thereof.
- r) Section 928.42(b), on the second line, delete ", if available". Also delete the next sentence and add the following in lieu thereof: "All fields for a given record, including fields that contain no data, shall have a tab or comma with a "full quote" text qualifier separator."
- s) Section 928.42(c), delete all proposed text and add the following in lieu thereof: "The disks should be enclosed in rigid protective packaging that will prevent bending and other destructive exposures that might be experienced in normal mail handling."
- t) Section 928.Exhibit A, delete "Circuit Court Clerk Paper Reporting Format" and add "Illinois Medical Professional Liability Insurance Uniform Claims Data Entry Reporting Screen" in lieu thereof. Also, add a new reporting screen before subsection (a) text begins.
- u) Section 928.Exhibit B, add "Illinois Medical Professional Liability Insurance Uniform Claims Report – Reporting Instructions", and strike "Illinois Medical Liability Paid and Closed Insurance Claims Report" and delete "(Repealed)". Existing text in Exhibit B was stricken and new text inserted.

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- v) Section 928.Exhibit B, in the Section source note, add "Amended" and delete "Repealed".
 - w) Section 928.Exhibit C, add "Illinois Medical Professional Liability Insurance Uniform Claims Reporting (IMPLIUCR) – Data Entry Navigational User's Guide", strike "Illinois Medical Liability Insurance Uniform Claims Report Instructions" and delete "(Repealed)". Existing text for Exhibit C was stricken and new text was added.
 - x) Section 928.Exhibit C, in the Section source note, add "Amended" and delete "Repealed".
 - y) Add Exhibit D to this rulemaking.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes.
- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments to this Part will require companies to report medical malpractice data electronically to the Secretary or Director of the Illinois Department of Financial and Professional Regulation – Division of Insurance pursuant to Section 155.19 of the Illinois Insurance Code [215 ILCS 5/155.19] using software developed by the Division. Also, please note that a new Section was added to this Part that will require Circuit Court Clerks to electronically report to the Secretary or Director all cases alleging medical malpractice. This new mandate is authorized by Public Act 94-677.
- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Pool Boutchee, Chief Casualty Actuary
Casualty Actuarial Section
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington Street
Springfield Illinois 62767-0001
217/524-5376

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

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TITLE 50: INSURANCE

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

SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 928

MEDICAL MALPRACTICE DATA BASE

Section

928.10 Authority

928.20 Purpose and Scope

928.30 Definitions

928.40 Reports

928.42 Circuit Court Clerk Reporting Requirements

928.50 Effective Date (Repealed)

928.EXHIBIT A Illinois Medical Professional Liability Insurance Uniform Claims Data
Entry Reporting Screen ~~Illinois Medical Liability Insurance Uniform
Claims Report~~928.EXHIBIT B Illinois Medical Professional Liability Insurance Uniform Claims Report –
Reporting Instructions ~~Illinois Medical Liability Paid and Closed Insurance
Claims Report~~928.EXHIBIT C Illinois Medical Professional Liability Insurance Uniform Claims
Reporting (IMPLIUCR) – Data Entry Navigational User's Guide ~~Illinois
Medical Liability Insurance Uniform Claims Report Instructions~~928.EXHIBIT D Illinois Medical Professional Liability Insurance Uniform Claims
Reporting (IMPLIUCR) – Batch Reporting Requirements and
Navigational User's Guide

AUTHORITY: Implementing Section 155.19 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/155.19 and 401].

SOURCE: Filed February 2, 1977, effective March 1, 1977; codified at 7 Ill. Reg. 892; amended at 24 Ill. Reg. 19133, effective January 1, 2001; amended at 30 Ill. Reg. 19288, effective December 4, 2006.

Section 928.10 Authority

This Part is promulgated by the Director of the Department of Financial and Professional Regulation-Division of Insurance under Section 401 of the Illinois Insurance Code [215 ILCS 5/401], which empowers the Director *“to make reasonable rules and regulations as may be*

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necessary for making effective..." the insurance laws of this State. The purpose of this Part is to implement Section 155.19 of the Illinois Insurance Code [215 ILCS 5/155.19].

(Source: Amended at 30 Ill. Reg. 19288, effective December 4, 2006)

Section 928.20 Purpose and Scope

- a) This Part establishes a uniform format for the reporting of information relating to allegations of provider liability. Individual liability data records filed by insurers pursuant to this Part will be held confidential by the ~~Division~~Department, to the same extent as is prescribed by ~~law pursuant to~~ Section 155.19 of the Illinois Insurance Code [215 ILCS 5/155.19].
- b) This Part shall apply to all companies licensed to do ~~an~~ insurance business in this State that ~~are~~is transacting the kind or kinds of business described as Class 2(c) of Section 4 of the Illinois Insurance Code [215 ILCS 5/4] and all other entities authorized or permitted by law as identified in Section 155.19 of the Illinois Insurance Code [215 ILCS 5/155.19] and as defined in Section 928.30 of this Part.

(Source: Amended at 30 Ill. Reg. 19288, effective December 4, 2006)

Section 928.30 Definitions

Code means the Illinois Insurance Code ~~and any of the Acts in Chapter 215 of the Illinois Compiled Statutes~~[215 ILCS 5].

Department means the Illinois Department of Financial and Professional Regulation~~Insurance~~.

Director means the Director of the Illinois Department of Financial and Professional Regulation~~Insurance~~.

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

Insurance Claim means a formal or written demand for compensation under a medical liability insurance policy relating to allegations of liability on the part of one or more providers, as defined in this Section, for any act, error or omission in the rendering of, or failure to render, medical services for medically related

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injuries. Insurance claim includes any instance for which benefits or compensation are payable or eligible to be paid under any coverage under the policy.

Insurance Claim Closed means any insurance claim, as defined in this Section, for which all indemnity and/or expense payments have final payment has been made or for which the loss or loss expense reserve is withdrawn by the insurer.

Insurance Claim Filed means any insurance claim, as defined in this Section, that alleges liability on the part of any provider, as defined in this Section, for medically related injuries and/or for which coverage is provided, for which a loss or loss expense reserve is established under a medical liability insurance policy.

Insurer means an insurance company that which has delivered or issued for delivery in this State a medical liability insurance policy.

Lawsuit means a complaint filed in any court in this State alleging liability on the part of one or more providers, as defined in this Section hereinafter, for any act, error or omission in the rendering of, or failure to render, medical services for medically related injuries.

Lawsuit Closed means any lawsuit, as defined in this Section, for which final disposition has been reached.

Lawsuit Filed means a lawsuit filed in any court of this State that alleges liability on the part of any physician, hospital or other health care provider for medically related injuries.

Other Entity means any stop loss insurer, captive insurer, risk retention group, county risk retention trust, religious or charitable risk pooling trust or surplus line insurer, or any other entity authorized or permitted by law to provide medical liability insurance as identified in Section 155.19 of the Code [215 ILCS 5/155.19].

Provider means any physician, hospital facility, or other person that which is licensed or otherwise authorized to furnish health care services and also includes any other entity that arranges for the delivery or furnishing of health care services. [215 ILCS 125/1-2(12)].

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(Source: Amended at 30 Ill. Reg. 19288, effective December 4, 2006)

Section 928.40 Reports

- a) All insurance claims and all lawsuits filed after January 1, 2006~~December 31, 1976, and all lawsuits filed after December 31, 1976,~~ shall be reported to the Secretary or Director by the insurer and contain the information set forth in Exhibits A through D of this Part, filed electronically, required in the filing software provided by the Division~~set forth in Exhibit A of this Part. Preferably this report should be filed with the Director electronically; however, hard copy form will still be accepted.~~
- b) All insurance claims closed and all lawsuits closed that were previously reported pursuant to subsection (a) of this Section shall be reported to the Secretary or Director by the insurer and contain the information set forth in Exhibits A through D of this Part, filed electronically, required in the filing software provided by the Division~~set forth in Exhibits A and B of this Part.~~
- c) All insurance claims and all lawsuits re-opened that were previously reported pursuant to subsection (b) of this Section shall be reported to the Secretary or Director by the insurer and contain the information set forth in Exhibits A through D of this Part, filed electronically, required in the filing software provided by the Division.
- d) All insurance claims and all lawsuits re-closed that were previously reported pursuant to subsection (c) of this Section shall be reported to the Secretary or Director by the insurer and contain the information set forth in Exhibits A through D of this Part, filed electronically, required in the filing software provided by the Division.
- e) All updates to insurance claims and lawsuits that were previously reported pursuant to subsections (a) through (d) of this Section shall be reported to the Secretary or Director by the insurer and contain the information set forth in Exhibits A through D of this Part, filed electronically required in the filing software provided by the Division.
- f) Beginning January 1, 2006~~January 1, 1977,~~ the reports required by ~~subsections~~subsection (a) ~~through (e) and (b)~~ of this Section shall be filed with the Secretary or Director on a quarterly basis, due 90 days after the end of the quarter, Director at least once each month and shall cover all updates and/or status

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~~changes that occurred in that quarter to all~~ insurance claims and lawsuits filed ~~or closed in that month or the preceding month.~~

- gd) Beginning ~~January 1, 2006~~~~January 1, 2001~~, insurers shall only be required to file reports ~~pursuant to required by subsection~~ ~~subsection~~ (a) ~~through (e) and (b)~~ of this Section upon request of the ~~Secretary or~~ Director for providers who ~~arrange any other entity that arranges~~ for the delivery or furnishing of health care services ~~pursuant to Section 1-2(12) of the Health Maintenance Organization Act [215 ILCS 125/1-2(12)].~~

(Source: Amended at 30 Ill. Reg. 19288, effective December 4, 2006)

Section 928.42 Circuit Court Clerk Reporting Requirements

- a) Beginning January 1, 2006, each clerk of the circuit court shall report to the Secretary or Director for every case filed in the Circuit alleging medical malpractice, the following information in an electronic format, in order for the Secretary or Director to verify the accuracy and completeness of reports required by Section 155.19 of the Code. Each filing will be for a unique docket number. If more than one defendant/plaintiff is associated with the same docket number, separate reports shall be filed for each named defendant and/or plaintiff. The information required for each lawsuit filed is listed below with a description and required format of each element:
- 1) Court Docket Number – Docket number (maximum = 40 characters);
 - 2) Named Defendant – Defendant named in the lawsuit (Last Name Suffix, First Name MI, Professional Designation; maximum = 64 characters);
 - 3) Named Plaintiff – Plaintiff named in the lawsuit (Last Name Suffix, First Name MI.; maximum = 59 characters);
 - 4) Award Date – Date of award (MM/DD/YYYY);
 - 5) County – County of circuit court (maximum = 35 characters);
 - 6) Amount Awarded by Circuit Court – Amount awarded by the circuit court (whole dollar amounts only);

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- 7) Economic Damages Awarded – Amount of economic damages awarded by the circuit court (whole dollar amounts only);
 - 8) Non-economic Damages Awarded – Amount of non-economic damages awarded by the circuit court (whole dollar amounts only);
 - 9) Court Verdict – Use the following code that best indicates the circuit court results: (1) Directed Verdict for Plaintiff; (2) Directed Verdict for Defendant; (3) Judgment Notwithstanding Verdict for Plaintiff (judgment for defendant); (4) Judgment Notwithstanding Verdict for Defendant (judgment for plaintiff); (5) Judgment for Plaintiff; (6) Judgment for Defendant; (7) Decision for Plaintiff on Appeal; (8) Decision for Defendant on Appeal, (9) Voluntary Dismissals; (10) Involuntary Dismissals; (11) All Other Actions.
 - 10) Disposition of Post-Trial Motions – Describe any post-trial motions (maximum = 25 characters);
 - 11) Name of Contact Person at the Clerk of Circuit – Name of contact person responsible for preparing this information (maximum = 59 characters);
 - 12) Telephone Number of Contact Person – Contact person telephone number (maximum = 20 characters); and
 - 13) Email Address of Contact Person – Contact person email address (maximum = 40 characters).
- b) The information submitted pursuant to subsection (a) of this Section shall be reported via the Division website, or on 3.5" diskettes or CDs. All fields for a given record, including fields that contain no data, shall have a tab or comma with a "full quote" text qualifier separator. Do not use quotes to qualify text. Each diskette or CD must be labeled "Casualty Actuarial Section – Circuit Court Information" The label must also include the following:
- 1) Name of Circuit Court – County;
 - 2) Submission Date;
 - 3) Dates Covered by the Filing;

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- 4) Number of Diskettes/CDs in this Submission with the Diskette/CD Number; and
- 5) Number of Records in this Submission.
- c) The disks should be enclosed in rigid protective packaging that will prevent bending and other destructive exposures that might be experienced in normal mail handling.
- d) Information shall be submitted to the Secretary or Director on a quarterly basis, due 90 days after the end of the quarter. Information submitted shall contain the elements listed in this Section for all new cases filed during the quarter, as well as for any new or additional information added to a previously reported case.

(Source: Added at 30 Ill. Reg. 19288, effective December 4, 2006)

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Section 928.EXHIBIT A Illinois Medical Professional Liability Insurance Uniform Claims Data Entry Reporting Screen
~~Illinois Medical Liability Insurance Uniform Claims Report~~

Name of Insurer:				FEIN:	
Claim ID:				Coverage Code:	
Date of Injury:	Date Reported to Insurer:	Date Claim Opened:	Date Claim Reopened:	Date of Original Closure:	
Profession or Business Code:				Date of Birth:	
Type of Practice Code:				Specialty:	
Insured's Name:				Board Certified:	
License Number or FEIN:				County:	
Place Where Injury Occurred Code:				Name of Institution:	
Location in Institution Code:				County:	
Injured Person's Name:				Social Security Number:	
Gender:				County:	
Age Category:					
Total Insured Defendants Involved in Claim:					
Companion Claim File ID#:					
Person Responsible for Preparing Report:				Title:	
Contact Person					
Telephone Number:					
Email Address:					
Plaintiff Attorney's Name or Law Firm:				City:	
				State:	
Nature and Substance of Claim:					
Act or Omission Codes:					
Severity of Injury Code:					
Date of Closure:		Claim Disposition Code:		Settlement Code:	
Review Panel Code:		Binding Arbitration Code:			
Court Information – Court Code:				Appealed (Y/N):	
County:				Result of Appeal:	
Docket Number:				Other Post Trial Motions:	
Amount Awarded by Circuit Court:				Economic Damages:	
Date of award:				Non-economic Damages:	
Indemnity Paid/Payable by You under This Policy on Behalf of This Insured/Defendant:					

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Economic Damages:
Non-economic Damages:
Loss Adjustment Expense Paid/Payable by You under This Policy to Defense Counsel:
All other Allocated Loss Adjustment Expenses Paid/Payable by You under This Policy:
Indemnity Paid/Payable by You under All Policies on Behalf of This Insured/Defendant:
Other Indemnity Paid by You or on Behalf of This Defendant:
D) Deductible Paid by Insured:
E) Indemnity Paid under Excess Limits Policy by Another Insurer:
F) Amount Paid under Self-insured Retention:
G) Amount Paid above Stop Loss Limit:
Claimed Medical Expense:
Claimed Wage Loss:

a) Court Docket Number: _____

b) Named Defendant: _____

c) Named Plaintiff: _____

d) Award Date: MM/DD/YYYY _____

e) County: _____

f) Amount Awarded by Circuit Court: \$ _____

g) Economic Damages Awarded: \$ _____

h) Non-economic Damages Awarded: \$ _____

i) Court Verdict: _____

j) Disposition of Post-Trial Motions: _____

k) Name of Contact Person at the Clerk of Circuit: _____

l) Telephone Number of Contact Person: _____

m) Email Address of Contact Person: _____

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~~File one report for each defendant insured by filing insurer. Include claims closed without payment. Complete all requested information on each report. If the information is unknown, enter UK; if not applicable, enter NA. When an item calls for a dollar amount and no amount is involved, enter 0 in the space. Each entry marked (CODE) requires a specific code which is identified in Exhibit C of this Part. Record all amounts in whole dollars only, all dates as MM/DD/YY and all ages (on date of occurrence) as YY.~~

~~Complete For All Claims~~~~1a. Name of Insurer:~~~~1b. Claim File ID#:~~~~2a. Date of Injury:~~~~2b. Date Reported to Insurer:~~~~2c. Date Reopened:~~~~2d. Date of Original Closure (if reopened):~~~~3a. Insured's Name:~~~~3b. Insured's Age:~~~~3c. City:~~~~3d. State:~~~~3e. Zip:~~~~4a. Profession or Business (CODE):~~~~4b. Specialty (CODE):~~~~4c. Type of Practice (CODE):~~~~5a. Board Certification (Y or N):~~~~5b. Foreign Medical Graduate?~~~~5c. Country:~~~~6a. Place where injury occurred (CODE):~~~~6b. City:~~~~6c. State:~~~~6d. Zip:~~~~7a. Name of Institution (if injury occurred in institution):~~~~7b. Location in Institution (CODE):~~~~8a. Injured Person's Name:~~~~8b. Injured Person's Age:~~~~8c. Sex of Injured Person:~~

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| 9a. ~~Total Defendants Involved in Claim:~~

| 9b. ~~Derivative Claim (CODE):~~

(Source: Amended at 30 Ill. Reg. 19288, effective December 4, 2006)

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Section 928. EXHIBIT B Illinois Medical Professional Liability Insurance Uniform Claims Report – Reporting Instructions~~Illinois Medical Liability Paid and Closed Insurance Claims Report~~

To assist insurers and other reporting entities with electronic reporting, the Illinois Department of Financial and Professional Regulation-Division of Insurance (DOI) has created an electronic reporting application, which will be provided free of charge. Reporting entities will choose one of the two processes depending on how they prefer to file. One process will allow for data entry claim reporting and contain drop downs with choices. The other process will allow for batch reporting.

As required by Section 155.19 of the Insurance Code [215 ILCS 5/155.19] and 50 Ill. Adm. Code 928:

1. File all opened, closed, re-opened, and re-closed medical professional liability insurance claims and lawsuits, including any updates, with the DOI on a quarterly basis. For closed claims, include claims closed without payment. Insurance claim means a formal or written demand for compensation under a medical liability insurance policy relating to allegations of liability on the part of one or more providers for any act, error or omission in the rendering of, or failure to render, medical services for medically related injuries. Insurance claim includes any instance for which benefits or compensation are payable or eligible to be paid under any coverage under the policy. Lawsuit means a complaint filed in any court in this State alleging liability on the part of one or more providers for any act, error or omission in the rendering of, or failure to render, medical services for medically related injuries.
2. File separate reports for each defendant you insure. Each filing of a claim or lawsuit report shall be identified with a unique claim number. If more than one defendant/insured is associated with an incident, a unique claim number is required for each defendant/insured. If more than one claimant/injured party is associated with an incident, a unique claim number is required for each claimant/injured party. When there are multiple associated claims/lawsuits, report companion claim numbers in the other claims information section.
3. RESPONSES TO ALL FIELDS ARE REQUIRED. For open claim reports, complete Insurer Information through Contact Person Information. When updating reports, any information may be updated. For closed claim reports, all fields are required.

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4. On the data entry process, drop downs are available for selecting codes for fields with an asterisk (*).
5. On the data entry process, incomplete filings cannot be saved – i.e., if you quit a filing before you have completed all required fields, you will not be able to save that incomplete filing.
6. Reports are due on a quarterly basis no later than 90 days after the quarter's end.

NOTE: If a company fails to submit accurate, timely, or complete reports, the Director may fine the company up to \$1000 for each offense. Each day during which a violation occurs constitutes a separate offense.

Insurer Information

- 1a. Insurer Name (not group name) (Maximum = 40 characters).
- 1b. Insurer 9-digit FEIN. Entities without a Federal Employer Identification Number (FEIN), contact the DOI for assigned number.

Initial Claim Information

- 2a. Claim ID. For each open claim report, assign a distinguishing claim number sufficient to enable DOI to track a particular claim over a period of years. On re-opened claims, use the same claim number as the original claim file that is being re-opened.
- 2b. Coverage Code.* Select the type of policy covering this claim. (1) Claims Made – Policy covers claim made during policy term regardless of when the incident occurred; (2) Prior Acts – Policy covers claim made during the policy term for events that occurred prior to the beginning of the policy term; (3) Occurrence – Policy covers claim that occurred during the policy term regardless of when the claim is presented; (4) Extended Reporting Period/Tail Coverage – Policy covers claim that occurred during the policy period but claim is made after the policy period ended.
- 2c. Date of Principal or Alleged Injury. (MM/DD/YYYY)
- 2d. Date Incident First Reported to Insurer. (MM/DD/YYYY) Date of alleged injury first reported to the insurer.

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- 2e. Date Claim Opened by Insurer. (MM/DD/YYYY)
- 2f. Date Claim Re-Opened by Insurer. (MM/DD/YYYY)
- 2g. Date of Closure of Original Claim. (MM/DD/YYYY)

Insured Information

- 3a. Profession or Business Code.* (1) Physician or Surgeon*; (2) Hospital; (3) Nurse*; (4) Nursing Home; (5) Dentist*; (6) Pharmacy; (7) Optometrist*; (8) Chiropractor*; (9) Podiatrist/Chiropodist*; (10) Clinic/Corporation; (11) Other* – Employee (Maximum = 25 characters). A code with an asterisk (*) requires a "Type of Practice Code" as well.
- 3b. Type of Practice Code.* (1) Institutional, including Academic; (2) Professional Corporation, Partnership, or Group; (3) Self-Employed; (4) Hospital; (5) Nursing Home; (6) All Other Employees; (7) Intern or Resident.
- 3c. Insured's Name, including suffix such as MD, DO, etc.
- 3d. Insured's Illinois License Number. If unavailable, enter insured's Social Security Number. Enter FEIN for clinics and corporations.
- 3e. Insured's Date of Birth (MM/DD/YYYY). Not applicable to institution, group, or partnership.
- 3f. Five-digit ISO Specialty Code from Current ISO Common Statistical Base Classifications. Check annually with ISO for possible changes to specialty codes. Specialty code must be tied to the year the alleged injury occurred.
- 3g. Board Certified?* Y or N.
If Board Certified is answered with a "Y", Name of Board is required (Maximum = 25 characters).
- 3h. County of Insured's Principal Place of Practice for Rating Purposes.

Place of Injury Information

- 4a. Place Where Alleged Injury Occurred Code.* Enter only one. (1) Hospital Inpatient Facility*; (2) Emergency Room; (3) Hospital Outpatient Facility*; (4) Nursing Home*;

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(5) Physician's Office; (6) Patient's Home; (7) Other Outpatient Facility, including Clinics*; (X) Other* – describe place (Maximum = 25 characters).
A code with an asterisk (*) requires a "Location Within Institution Code" as well.

4b. Location Within Institution Code.* (1) Patient's Room; (2) Labor/Delivery Room; (3) Operating Suite; (4) Recovery Room; (5) Critical Care Unit; (6) Special Procedure Room; (7) Nursery; (8) Radiology; (9) Physical Therapy Department; (X) Other – describe (Maximum = 25 characters).

4c. Name of Institution. (Maximum = 25 characters)

4d. County Where Alleged Injury Occurred.

Injured Person Information

5a. Injured Person's Name.

5b. Injured Person's Gender. M F

5c. Injured Person's Age Category.

5d. Injured Person's Social Security Number (for cross-tracking purposes only; information is kept confidential).

5e. County.

Other Claim Information

6a. Total Number of Defendants. Enter total number of persons or corporations that you insure that are involved in this claim.

6b. Companion Claim Number(s). Enter claim identification numbers for all claims against other defendants you insure that are involved in this claim. Space is limited to five separate claim numbers (Maximum = 35 characters each).

Contact Person Information

7a. Name of Person Responsible for Preparing this Report.

7b. Title of Person Responsible for Preparing this Report.

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7c. Contact Person Name (if different than Name of Person Responsible for Preparing this Report).

7d. Contact Person Telephone Number.

7e. Contact Person Email Address.

Plaintiff Attorney Information

8a. Plaintiff Attorney's Name or Name of Law Firm.

8b. Plaintiff Attorney's Office City.

8c. Plaintiff's Attorney's Office State.*

Claim Data Information

9a. Nature and Substance of Claim. Give complete description of all actions and circumstances causing the claim, including allegations made by claimant. (Maximum = 250 characters)

9b. Act or Omission Codes Related to Claim.* Enter as many codes as needed. Use DOI 3-digit codes listed below. (1) Diagnosis Related; (2) Anesthesia Related; (3) Surgery Related; (4) Medication Related; (5) Intravenous and Blood Products Related; (6) Obstetrics Related; (7) Treatment Related; (8) Monitoring Related; (9) Biomedical Equipment/Product Medication Related; (10) Miscellaneous Related.

DOI 3-digit Act or Omission Code choices:

Diagnosis-Related

- 010 – Failure to Diagnose (e.g., concluding that patient has no disease or condition worthy of follow-up or observation)
- 020 – Wrong Diagnosis or Misdiagnosis (e.g., original diagnosis is incorrect)
- 030 – Improper Performance of Test
- 040 – Unnecessary Diagnostic Test
- 050 – Delay in Diagnosis
- 060 – Failure to Obtain Consent/Lack of Informed Consent
- 070 – Diagnosis Related – Not Otherwise Classified

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- Anesthesia-Related 110 – Failure to Complete Patient Assessment
120 – Failure to Monitor
130 – Failure to Test Equipment
140 – Improper Choice of Anesthesia Agent or Equipment
150 – Improper Technique/Induction
160 – Improper Equipment Use
170 – Improper Intubation
180 – Improper Positioning
185 – Failure to Obtain Consent/Lack of Informed Consent
190 – Anesthesia Related – Not Otherwise Classified
- Surgery-Related 210 – Failure to Perform Surgery
220 – Improper Positioning
230 – Retained Foreign Body
240 – Wrong Body Part
250 – Improper Performance of Surgery
260 – Unnecessary Surgery
270 – Delay in Surgery
280 – Improper Management of Surgical Patient
285 – Failure to Obtain Consent/Lack of Informed Consent
290 – Surgery Related – Not Otherwise Classified
- Medication-Related 305 – Failure to Order Appropriate Medication
310 – Wrong Medication Ordered
315 – Wrong Dosage Ordered of Correct Medication
320 – Failure to Instruct on Medication
325 – Improper Management of Medication Regimen
330 – Failure to Obtain Consent/Lack of Informed Consent
340 – Medication Error – Not Otherwise Classified
350 – Failure to Medicate
355 – Wrong Medication Administered
360 – Wrong Dosage Administered
365 – Wrong Patient
370 – Wrong Route
380 – Improper Technique/Induction
390 – Medication Administration Related – Not Otherwise Classified
- Intravenous & 410 – Failure to Monitor
Blood Products- 420 – Wrong Solution

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<u>Related</u>	<u>430– Improper Performance</u> <u>440 – I.V. Related – Not Otherwise Classified</u> <u>450 – Failure to Ensure Contamination Free</u> <u>460 – Wrong Type</u> <u>470 – Improper Administration</u> <u>480 – Failure to Obtain Consent/Lack of Informed Consent</u> <u>490 – Blood Product Related – Not Otherwise Classified</u>
<u>Obstetrics-Related</u>	<u>505 – Failure to Manage Pregnancy</u> <u>510 – Improper Choice of Delivery Method</u> <u>520 – Improperly Performed Vaginal Delivery</u> <u>530 – Improperly Performed C-Section</u> <u>540 – Delay in Delivery (Induction or Surgery)</u> <u>550 – Failure to Obtain Consent/Lack of Informed Consent</u> <u>555 – Improperly Managed Labor – Not Otherwise Classified</u> <u>560 – Delay in Treatment of Fetal Distress (i.e., identified but treated in untimely manner)</u> <u>570 – Retained Foreign Body/Vaginal/Uterine</u> <u>575 – Abandonment</u> <u>580 – Wrongful Life/Birth</u> <u>590 – Obstetrics Related – Not Otherwise Classified</u>
<u>Treatment-Related</u>	<u>610 – Failure to Treat</u> <u>620 – Wrong Treatment/Procedure Performed</u> <u>630 – Failure to Instruct Patient on Self-Care</u> <u>640 – Improper Performance of Treatment/Practice</u> <u>650 – Improper Management of Course of Treatment</u> <u>660 – Unnecessary Treatment</u> <u>665 – Delay in Treatment</u> <u>670 – Premature End of Treatment (Also Abandonment)</u> <u>675 – Failure to Supervise Treatment/Procedure</u> <u>680 – Failure to Obtain Consent/Lack of Informed Consent</u> <u>685 – Failure to Refer or Seek Consultation</u> <u>690 – Treatment Related – Not Otherwise Classified</u>
<u>Monitoring-Related</u>	<u>710 – Failure to Monitor</u> <u>720 – Failure to Respond to Patient</u> <u>730 – Failure to Report on Patient Condition</u> <u>790 – Monitoring Related – Not Otherwise Classified</u>

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Biomedical
Equipment/
Product-Related 810 – Failure to Inspect/Monitor
820 – Improper Maintenance
830 – Improper Use
840 – Failure to Respond to Warning
850 – Failure to Instruct Patient on Use of Equipment/Product
860 – Malfunction/Failure
890 – Biomedical Equipment/Product-Related – Not Otherwise
Classified

Miscellaneous-
Related 920 – Failure to Protect Third Parties (e.g., failure to warn/protect
from violent patient behavior)
930 – Breach of Confidentiality/Privacy
940 – Failure to Maintain Appropriate Infection Control
950 – Failure to Follow Institutional Policy or Procedure
960 – Other (Provide Detailed Description)
990 – Failure to Review Providing Performance

9c. Severity of Injury Code. Select only one – Select code for principal injury if several injuries are involved.*

- | | | |
|-------------------|-----------|--|
| | <u>1)</u> | <u>Emotional Only (e.g., fright, no physical damage)</u> |
| <u>Temporary:</u> | <u>2)</u> | <u>Insignificant (e.g., lacerations, contusions, minor scars, rash; no delay)</u> |
| | <u>3)</u> | <u>Minor (e.g., infections, misset fracture, fall in hospital; recovery delayed)</u> |
| | <u>4)</u> | <u>Major (e.g., burns, surgical material left, drug side effect, brain damage; recovery delayed)</u> |
| <u>Permanent:</u> | <u>5)</u> | <u>Minor (e.g., loss of fingers, loss or damage to organs; includes non-disabling injuries)</u> |
| | <u>6)</u> | <u>Significant (e.g., deafness, loss of limb, loss of eye, loss of one kidney or lung)</u> |
| | <u>7)</u> | <u>Major (e.g., paraplegia, blindness, loss of two limbs, brain damage)</u> |
| | <u>8)</u> | <u>Grave (e.g., quadriplegia, severe brain damage, lifelong care or fatal prognosis)</u> |
| | <u>9)</u> | <u>Death</u> |

9d. Date of Closure of Claim. (MM/DD/YYYY)

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- 9e. Claim Disposition Code.* Enter code representing the final disposition of the claim. (1) Settled by Parties*; (2) Disposed of by a Court**; (3) Disposed of by Binding Arbitration***; (4) Suit Abandoned****; (5) Claim Abandoned.
A code with an (*) requires a "Settlement Code" as well.
A code with an (**) requires "Court Information" to be completed as well.
A code with an (***) requires a "Binding Arbitration Code" as well.
A code with an (****) requires a "County of Circuit Court" and "Docket Number" as well.
- 9f. Settlement Code.* (1) Before Filing Suit or Demanding Arbitration Hearing; (2) Before Trial or Hearing; (3) During Trial or Hearing; (4) After Trial or Hearing but Before Judgment or Decision/Award; (5) After Judgment or Decision but Before Appeal; (6) During Appeal; (7) After Appeal; (8) As a result of Review Panel or Non-Binding Arbitration**; (9) As a Result of Mediation; (10) As a Result of High/Low Settlement***.
A code with an (**) requires a "Review Panel or Non-Binding Arbitration Code" as well.
A code with an (***) requires all applicable "Court Information" except "Court Code".
- 9g. Review Panel or Non-Binding Arbitration Code.* (1) Finding for Plaintiff; (2) Finding for Defendant.
- 9h. Binding Arbitration Code* (1) Award for Plaintiff; (2) Award for Defendant.

Court Information

- 10a. Court Code.* (1) Directed Verdict for Plaintiff; (2) Directed Verdict for Defendant; (3) Judgment Notwithstanding Verdict for Plaintiff (judgment for defendant); (4) Judgment Notwithstanding Verdict for Defendant (judgment for plaintiff); (5) Judgment for Plaintiff; (6) Judgment for Defendant; (7) Decision for Plaintiff on Appeal; (8) Decision for Defendant on Appeal; (9) Voluntary Dismissal; (10) Involuntary Dismissal; (11) All Other Actions.
- 10b. County of Circuit Court.
- 10c. Docket Number.
- 10d. Amount Awarded by Circuit Court. (whole dollar amounts only)

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- 10e. Date of Award. (MM/DD/YYYY)
- 10f. Was the Circuit Court decision appealed? Y or N
If "Y", Describe the Result of the Appeal. (Maximum = 25 characters)
- 10g. Describe any Other Post Trial Motions. (Maximum = 25 characters)
- 10h. Economic Damages. Amount of economic damages awarded by the court. This amount plus 10i. Non-economic Damages must equal 10d. Amount Awarded by Circuit Court. (whole dollar amounts only)
- 10i. Non-economic Damages. Amount of economic damages awarded by the court. This amount plus 10h. Economic Damages must equal 10d. Amount Awarded by Circuit Court. (whole dollar amounts only)

Claim Payment Information

- 11a. Total Direct Indemnity Paid/Payable by You Under this Policy on Behalf of this Insured/Defendant. Amount reported here shall be less than or equal to 10d. Amount Awarded by Circuit Court, if 10d. contains an amount greater than 0. (whole dollar amounts only)
- 11b. Economic Damages. If 9e. Claim Disposition Code is (2) Disposed of by a Court, enter the amount that was paid/payable by you for economic damages, as indicated by the court award. This amount plus 11c. Non-Economic Damages must equal amount reported in 11a. Total Direct Indemnity Paid/Payable by You Under this Policy on Behalf of this Insured/Defendant. (whole dollar amounts only)
- 11c. Non-Economic Damages. If 9e. Claim Disposition Code is (2) Disposed of by a Court, enter amount that was paid/payable by you for non-economic damages, as indicated by the court award. This amount plus 11b. Economic Damages must equal amount reported in 11a. Total Direct Indemnity Paid/Payable by You Under this Policy on Behalf of this Insured/Defendant. (whole dollar amounts only)
- 11d. Direct Loss Adjustment Expense Paid/Payable by You under this Policy to Defense Counsel. (whole dollar amounts only)
- 11e. All Other Allocated Loss Adjustment Expenses Paid/Payable by You for this Insured/Defendant for this claim, including filing fees, telephone charges, photocopy fees, expenses of defense counsel, etc. (whole dollar amounts only)

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- 16b. ~~Severity of Injury (CODE):~~
- 17a. ~~Misadventures in Procedures (CODE):~~
- 17b. ~~Misadventures in Diagnosis (CODE):~~
- 18a. ~~Others Contributing to Injury (CODE):~~
- 18b. ~~Associated Issues (CODE):~~
- 18c. ~~Coverage:~~
19. ~~Companion Claim File ID #s: 1. 2.
3. 4.~~
- 20a. ~~Date of this payment or closure:~~
- 20b. ~~Claim Disposition (CODE):~~
- 20c. ~~Settlement (CODE):~~ 21a. ~~Court (CODE):~~
- 21b. ~~Binding Arbitration (CODE):~~ 21c. ~~Review Panel (CODE):~~
22. ~~Indemnity paid by insurer on behalf of named insured/defendant: \$~~
23. ~~Other indemnity paid by or on behalf of named insured/defendant: \$~~
24. ~~Indemnity paid by all parties (for all defendants): \$~~
25. ~~Loss adjustment expense paid to all defense counsel: \$~~
26. ~~All other allocated loss adjustment expense paid by insurer: \$~~
27. ~~Injured person's incurred medical expense: \$~~
28. ~~Injured person's anticipated future medical expense: \$~~
29. ~~Injured person's incurred wage loss: \$~~

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Section 928.EXHIBIT C Illinois Medical Professional Liability Insurance Uniform Claims Reporting (IMPLIUCR) – Data Entry Navigational User's Guide~~Illinois Medical Liability Insurance Uniform Claims Report Instructions~~

State of Illinois
Department of Financial and Professional Regulation
Division of Insurance

May 2006

Illinois Medical Professional Liability Insurance Uniform Claims Reporting (IMPLIUCR)
Data Entry Navigational User's Guide

To assist insurers and other reporting entities with electronic reporting, the Illinois Department of Financial and Professional Regulation – Division of Insurance (DOI) has created an electronic reporting application, which will be provided free of charge. Reporting entities will choose one of the two processes depending on how they prefer to file. One process will allow for data entry claim reporting and contain drop downs with choices. The other process will allow for batch reporting. This is the navigational user's guide for data entry claim reporting.

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<u>2.</u>	<u>Main Menu</u>	<u>4</u>
<u>3.</u>	<u>Claims Report Maintenance Menu</u>	<u>5</u>
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Application Start Up Instructions and System Menu

Application Startup Instructions

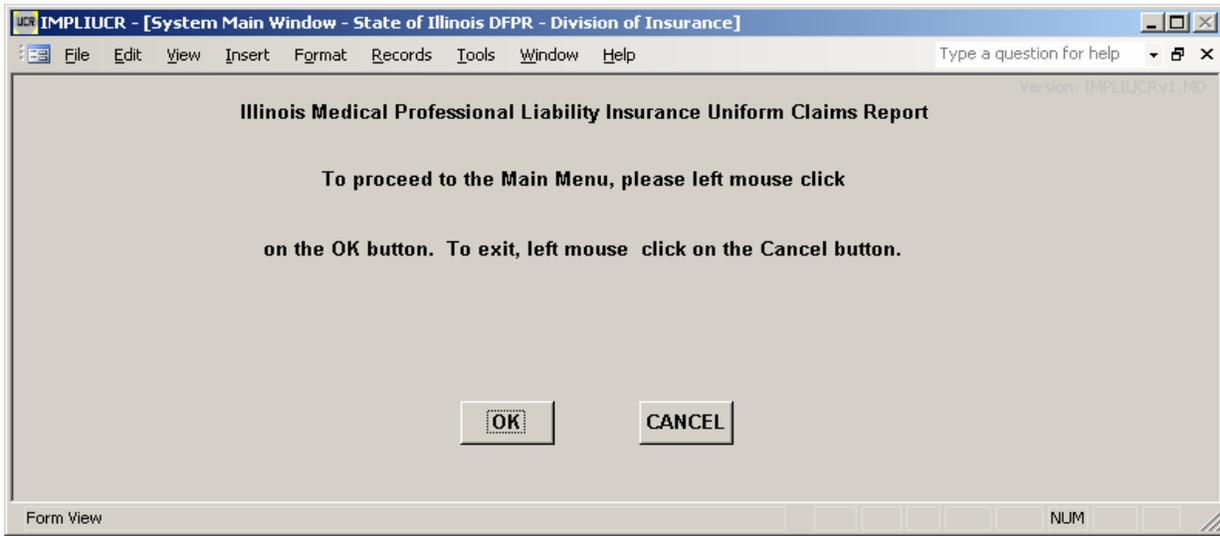
Left mouse click on Start, mouse over the Programs menu caption, look for the IMPLIUCR caption and mouse over.



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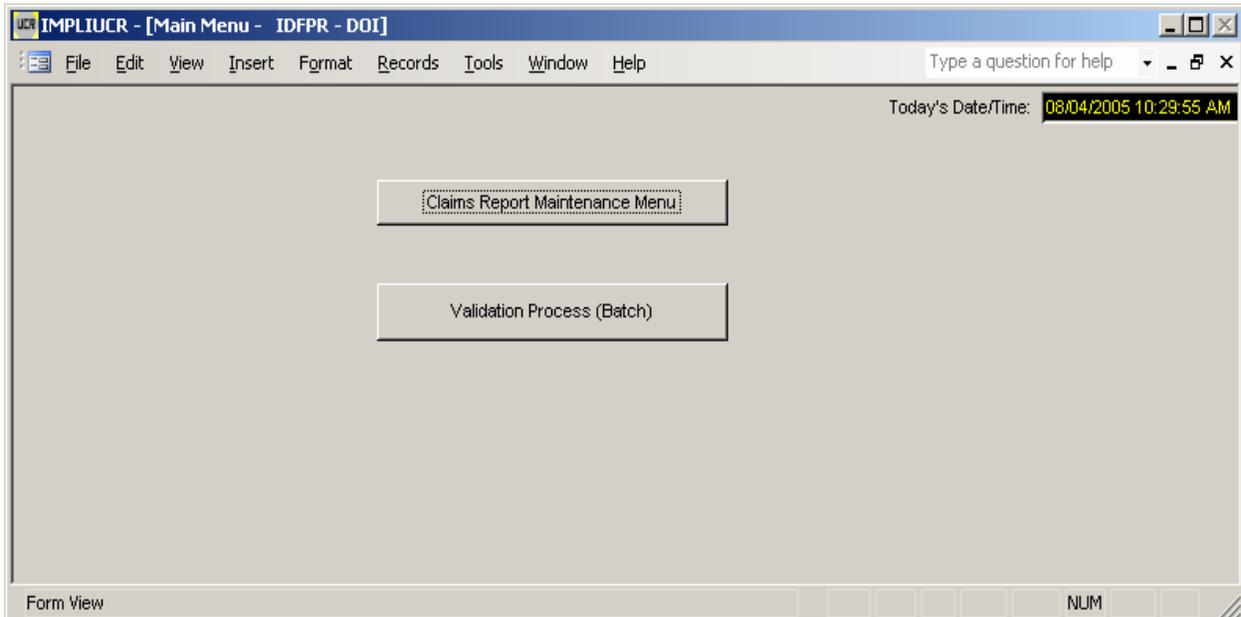
NOTICE OF ADOPTED AMENDMENTS

To the right of the IMPLIUCR caption you should see the ACCESS key ICON  and IMPLIUCR caption. Left mouse click on the IMPLIUCR caption to gain access to the System Main Window as displayed below.



Left mouse click on the "OK" button to gain access to the IMPLIUCR Main Menu. Left mouse click on the "Cancel" button to exit this application.

Main Menu



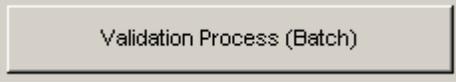
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The Illinois Department of Financial and Professional Regulation-Division of Insurance (IDFPR-DOI) "IMPLIUCR Requirements Main Menu", shown above, is the starting point from which you can enter Claims Report information into a Medical Malpractice Database.

A rectangular button with a light gray background and a thin black border. The text "Claims Report Maintenance Menu" is centered within the button in a black, sans-serif font.

Left mouse click on this button to gain access to the Claims Report Maintenance Menu for reporting Claim Reports.

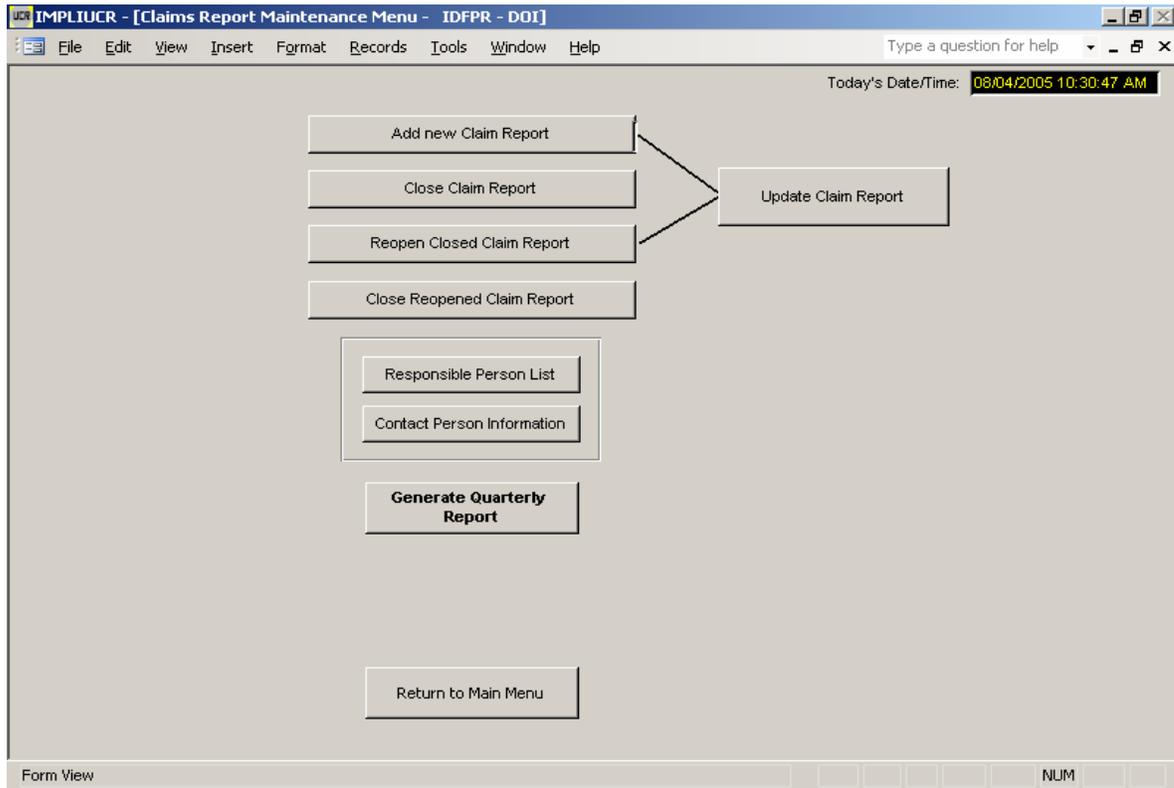
A rectangular button with a light gray background and a thin black border. The text "Validation Process (Batch)" is centered within the button in a black, sans-serif font.

Left mouse click on this button to process submitted claims report files. See IMPLIUCR Industry Reporting Requirements User Guide, batch processing, for help.

Claim Reporting Maintenance Menu

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Left mouse click on this button to create new Open Claim Reports.



Left mouse click on this button to close an Open Claim Report.



Left mouse click on this button to Re-open a Closed Claim Report.



Left mouse click on this button to close a Re-opened Claim Report.



Left mouse click on this button to make changes to an Open Claim Report or a Re-opened Closed Claim Report or to Re-open a Closed Claim Report.



Left mouse click on this button to process add/update/delete changes to Person Responsible list.

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Contact Person Information

[Left mouse click on this button to process add/update/delete changes to the Contact Person Information list.](#)

Generate Quarterly Report

[Left mouse click on this button to gain access to the Quarterly Reporting Process for submission of Claim Reports to the IDFPR-Division of Insurance.](#)

Return to Main Menu

[Left mouse click on this button to return to the "IMPLIUCR Requirements Main Menu".](#)

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Uniform Claims Reporting

You can get to this window via the ["IMPLIUCR – Claims Report Maintenance Menu"](#).

Left mouse click on this button to save the report information you have typed into the claim.

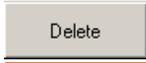
Left mouse click on this button to see a preview of the claim and to print a copy of that claim or to add a claim to the database.

Left mouse click on this button to gain access to Field definitions and Specifications.

Left mouse click on this button located at the bottom of the claim or this button  located in the top right hand corner of the claim to close the claim. If changes to the claim have been made you will be prompted to save those changes. If you respond no and do not save changes they will be lost.

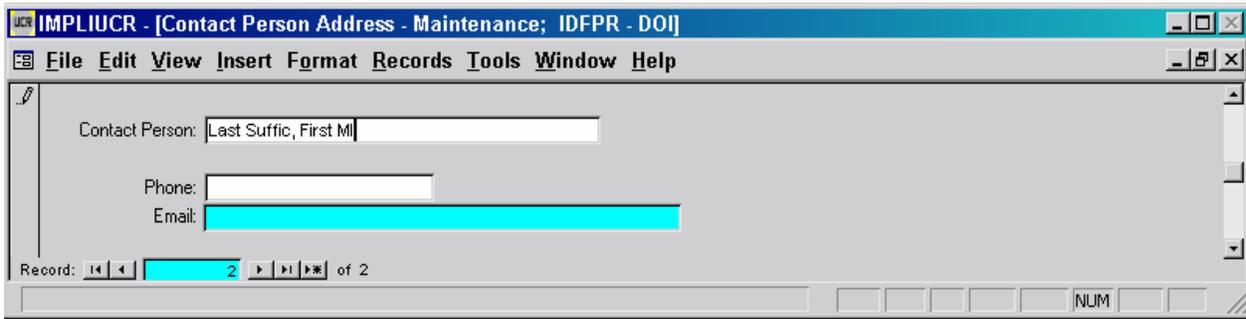
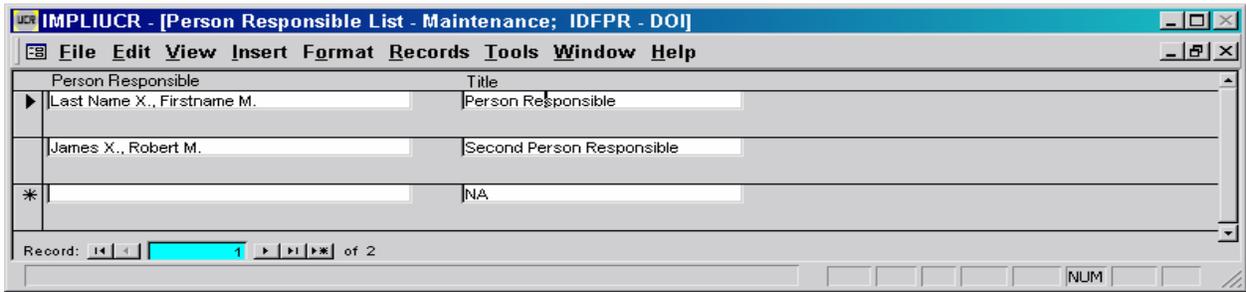
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Left mouse click on this button to delete a record. Once a record is deleted it cannot be retrieved again.

Person Responsible and Contact Person Information Lists



You can get to these windows via the "**IMPLIUCR – Claims Report Maintenance Menu**". Building and maintaining current Person Responsible and Contact Person information files will aid in the data entry process for opening a new claims report (see figure below).

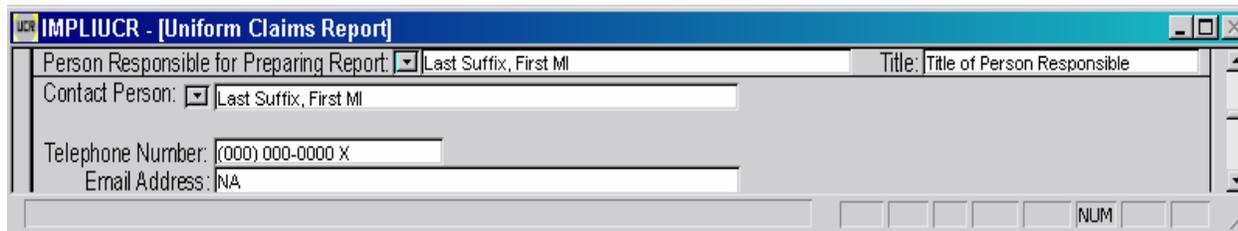
To add/change a record, type in report information, then left mouse click on the record navigation buttons Record: of 4 , "Shift + Enter" keys, or the enabled close button at the top right corner of this window to effect a change or new record addition.

To delete a record, left mouse click on the vertical record selector box containing the black twisty , and then press the delete key. You must reenter data that is mistakenly deleted.

Picture Extract of Claim Report Data Entry Window:

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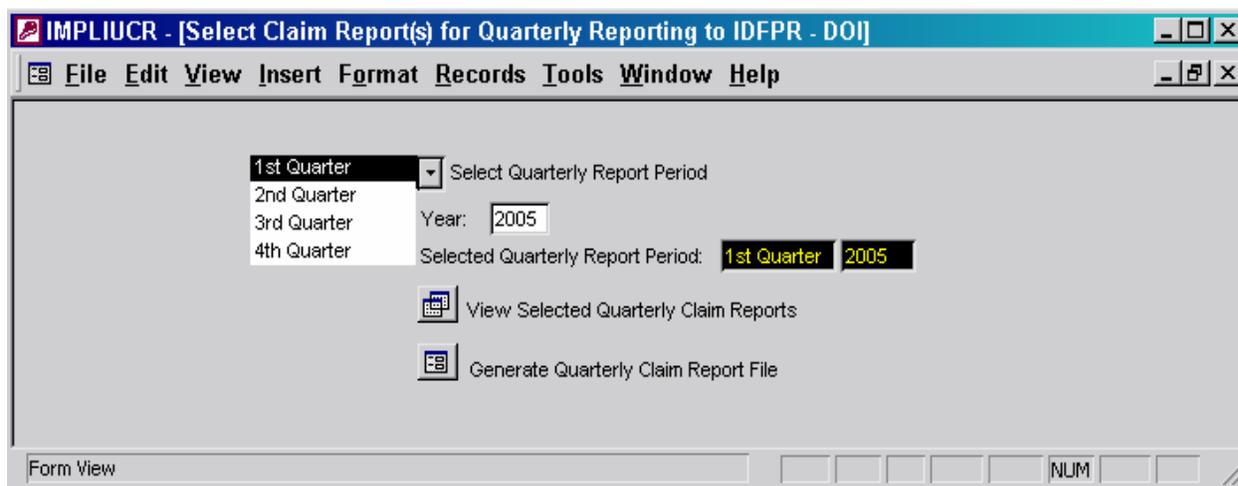
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Left mouse click on the twisty button, next to "Person Responsible for Preparing Report", for gaining access to a list of Responsible Person and Title.

Left mouse click on the twisty button, next to "Contact Person", for gaining access to a list of Responsible Person and Title.

Quarterly Reporting Process



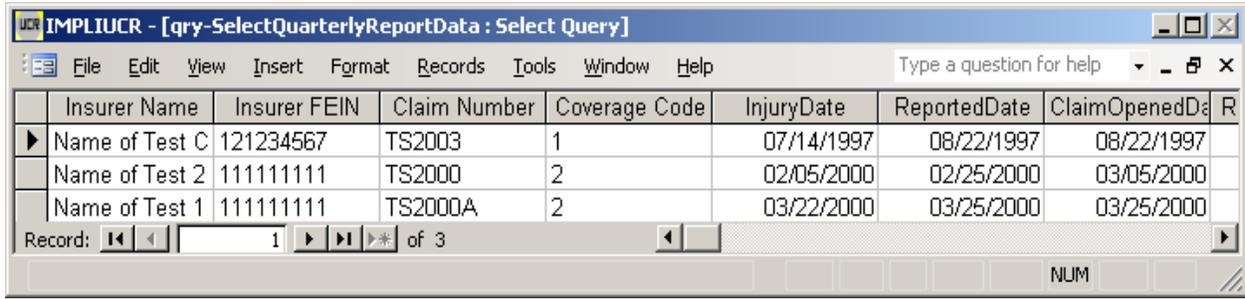
You can get to this window for generating a quarterly claims report file by left mouse clicking on the "Generate Quarterly Report" button displayed on the "IMPLIUCR – Claims Report Maintenance Menu" window. First: select quarter from drop down list. Then, if needed, change the reporting year. All claims with an open, re-opened, closed date, and any claim with a maintenance date that falls within the reporting quarter will be selected for submission to the IDFPR-Division of Insurance.

Left mouse click on the  button next to "View Selected Quarterly Claim Reports" for gaining access to a datasheet view of claim reports.

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Left mouse click on the  button next to "Generate Quarterly Claim Report File" for gaining access to a browser "Save As" window (see Figure-1 page 9).



	Insurer Name	Insurer FEIN	Claim Number	Coverage Code	InjuryDate	ReportedDate	ClaimOpenedDate	R
▶	Name of Test C	121234567	TS2003	1	07/14/1997	08/22/1997	08/22/1997	
	Name of Test 2	111111111	TS2000	2	02/05/2000	02/25/2000	03/05/2000	
	Name of Test 1	111111111	TS2000A	2	03/22/2000	03/25/2000	03/25/2000	

Record: 1 of 3

Claim reports can only be viewed. Cannot delete, or modify displayed data. Each row consists of an individual claim report.

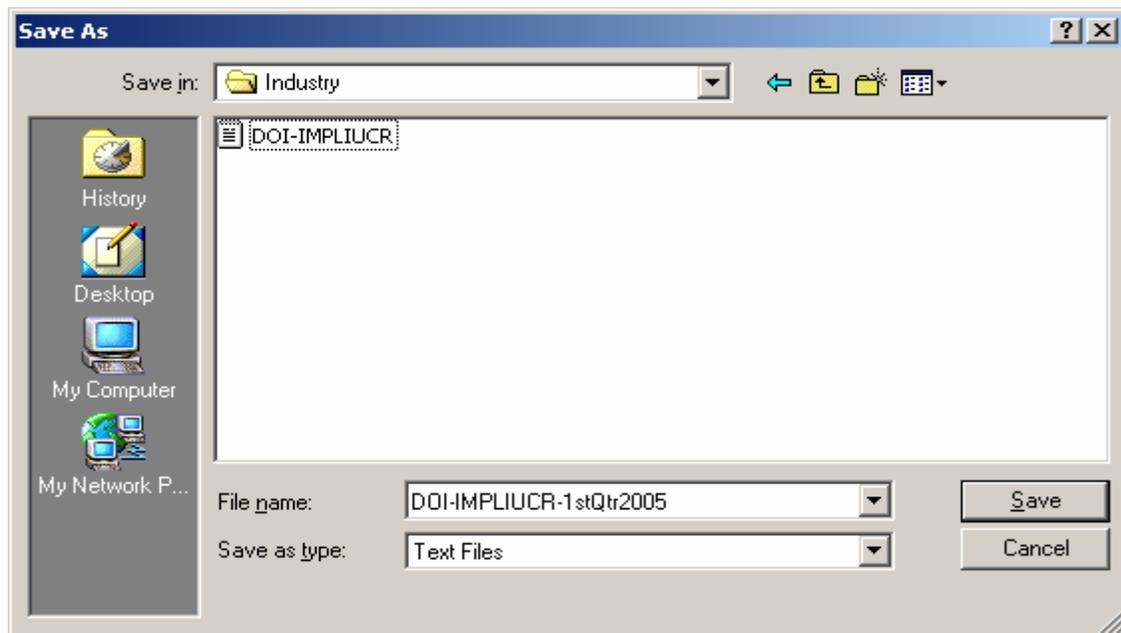
Computer Disk File Structures and Naming Conventions

Each disk submitted shall contain a physical file for Uniform Claim Reports.

A disk file name will be made up of two portions, a data name and an extension. The extension name will always be "txt". The file name of each file on the diskette will be:

DOI-IMPLIUCR and the Quarter and year being filed

Example with additional information: DOI-IMPLIUCR-1stQtr2005.txt



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(Figure-1)

From this browser "Save As" window, you will be able to save selected claim reports file for submission to the IDFPR-Division of Insurance.

Claim Report Field Types and Maximum Lengths

For Field/Data Definitions & Requirements see Exhibit B of this Part.

Company FEIN and Claim ID (Key Fields) are combined to make a unique claim report).

RI = Reporting Instructions numbering system reference.

<u>RI</u>	<u>Field Name</u>	<u>Type</u>	<u>Maximum Length</u>
<u>1a)</u>	<u>Insurer Name</u>	<u>Text</u>	<u>50</u>
<u>1b)</u>	<u>Insurer FEIN</u>	<u>Text</u>	<u>11</u>
<u>2a)</u>	<u>Claim ID</u>	<u>Text</u>	<u>35</u>
<u>2b)</u>	<u>Coverage Code</u>	<u>Text</u>	<u>2</u>
<u>2c)</u>	<u>Injury Date</u>	<u>Text</u>	<u>10</u>
<u>2d)</u>	<u>Reported Date</u>	<u>Text</u>	<u>10</u>
<u>2e)</u>	<u>Opened Date</u>	<u>Text</u>	<u>10</u>
<u>2f)</u>	<u>Re-opened Date</u>	<u>Text</u>	<u>10</u>
<u>2g)</u>	<u>Original Closure Date</u>	<u>Text</u>	<u>10</u>
<u>3a)</u>	<u>Insured Profession Code</u>	<u>Text</u>	<u>37</u>
	<u>Insured Profession Description</u>	<u>Text</u>	<u>30</u>
<u>3b)</u>	<u>Insured Practice Code</u>	<u>Text</u>	<u>2</u>
<u>3c)</u>	<u>Insured Name</u>	<u>Text</u>	<u>64</u>
	<u>Format: "Last Suffix, First MI. Profession"</u>		
	<u>Last</u>	<u>Text</u>	<u>40</u>
	<u>Suffix</u>	<u>Text</u>	<u>4</u>
	<u>Comma</u>	<u>Text</u>	<u>1</u>
	<u>First</u>	<u>Text</u>	<u>15</u>
	<u>MI</u>	<u>Text</u>	<u>1</u>
	<u>Period</u>	<u>Text</u>	<u>1</u>
	<u>Professional Designation (e.g., MD)</u>	<u>Text</u>	<u>4</u>
<u>3d)</u>	<u>Insured License Number</u>	<u>Text</u>	<u>15</u>
<u>3e)</u>	<u>Insured Date of Birth</u>	<u>Text</u>	<u>2</u>
<u>3f)</u>	<u>Insured Specialty Code</u>	<u>Text</u>	<u>5</u>
<u>3g)</u>	<u>Insured Board Certified</u>	<u>Text</u>	<u>2</u>
	<u>Name of Board</u>	<u>Text</u>	<u>25</u>

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<u>3h)</u>	<u>Insured County</u>	<u>Text</u>	<u>30</u>
<u>4a)</u>	<u>Injury Place</u>	<u>Text</u>	<u>59</u>
	<u>Injury Place Description</u>	<u>Text</u>	<u>30</u>
<u>4b)</u>	<u>Injury Place Location within Institution Code</u>	<u>Text</u>	<u>2</u>
	<u>Injury Place Location in Institution Description</u>	<u>Text</u>	<u>25</u>
<u>4c)</u>	<u>Injury Place Institution Name</u>	<u>Text</u>	<u>40</u>
<u>4d)</u>	<u>Injury Place County</u>	<u>Text</u>	<u>30</u>
<u>5a)</u>	<u>Injured Name</u>	<u>Text</u>	<u>59</u>
	<u>Format: "Last Suffix, First MI."</u>		
	<u>Last</u>	<u>Text</u>	<u>40</u>
	<u>Suffix</u>	<u>Text</u>	<u>4</u>
	<u>Comma</u>	<u>Text</u>	<u>1</u>
	<u>First</u>	<u>Text</u>	<u>15</u>
	<u>MI</u>	<u>Text</u>	<u>2</u>
	<u>Period</u>	<u>Text</u>	<u>1</u>
<u>5b)</u>	<u>Injured Gender</u>	<u>Text</u>	<u>1</u>
<u>5c)</u>	<u>Injured Person's Age Category</u>	<u>Text</u>	<u>10</u>
<u>5d)</u>	<u>Injured Person's SSN</u>	<u>Text</u>	<u>11</u>
<u>5e)</u>	<u>Injured Person's County Residence</u>	<u>Text</u>	<u>30</u>
<u>6a)</u>	<u>Total Number Defendants</u>	<u>Text</u>	<u>4</u>
<u>6b)</u>	<u>Companion Claim ID A</u>	<u>Text</u>	<u>35</u>
	<u>Companion Claim ID B</u>	<u>Text</u>	<u>35</u>
	<u>Companion Claim ID C</u>	<u>Text</u>	<u>35</u>
	<u>Companion Claim ID D</u>	<u>Text</u>	<u>35</u>
	<u>Companion Claim ID E</u>	<u>Text</u>	<u>35</u>
<u>7a)</u>	<u>Person Responsible</u>	<u>Text</u>	<u>64</u>
	<u>Format: "Last Suffix, First MI."</u>		
	<u>Last</u>	<u>Text</u>	<u>40</u>
	<u>Suffix</u>	<u>Text</u>	<u>4</u>
	<u>Comma</u>	<u>Text</u>	<u>1</u>
	<u>First</u>	<u>Text</u>	<u>15</u>
	<u>MI</u>	<u>Text</u>	<u>1</u>
	<u>Period</u>	<u>Text</u>	<u>1</u>
<u>7b)</u>	<u>Person Responsible Title</u>	<u>Text</u>	<u>30</u>
<u>7c)</u>	<u>Contact Person</u>	<u>Text</u>	<u>100</u>
	<u>Format: "Last Suffix, First MI."</u>		
	<u>Last</u>	<u>Text</u>	<u>40</u>
	<u>Suffix</u>	<u>Text</u>	<u>4</u>
	<u>Comma</u>	<u>Text</u>	<u>1</u>
	<u>First</u>	<u>Text</u>	<u>15</u>

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	<u>MI</u>	<u>Text</u>	<u>1</u>
	<u>Period</u>	<u>Text</u>	<u>1</u>
7d)	<u>Contact Person Phone</u>	<u>Text</u>	<u>20</u>
7e)	<u>Contact Person Email Address</u>	<u>Text</u>	<u>40</u>
8a)	<u>Attorney Name</u>	<u>Text</u>	<u>64</u>
	<u>Format: "Last Suffix, First MI."</u>		
	<u>Last</u>	<u>Text</u>	<u>40</u>
	<u>Suffix</u>	<u>Text</u>	<u>4</u>
	<u>Comma</u>	<u>Text</u>	<u>1</u>
	<u>First</u>	<u>Text</u>	<u>15</u>
	<u>MI</u>	<u>Text</u>	<u>1</u>
	<u>Period</u>	<u>Text</u>	<u>1</u>
8b)	<u>Attorney City</u>	<u>Text</u>	<u>16</u>
8c)	<u>Attorney State</u>	<u>Text</u>	<u>2</u>
9a)	<u>Nature and Substance of Claim</u>	<u>Text</u>	<u>150</u>
9b)	<u>Act or Omission Codes</u>	<u>Text</u>	<u>255</u>
9c)	<u>Severity Injury Code</u>	<u>Text</u>	<u>2</u>
9d)	<u>Date Claim Closed</u>	<u>Text</u>	<u>10</u>
9e)	<u>Disposition Code</u>	<u>Text</u>	<u>2</u>
9f)	<u>Settlement Code</u>	<u>Text</u>	<u>2</u>
9g)	<u>Review Code</u>	<u>Text</u>	<u>2</u>
9h)	<u>Arbitration Code</u>	<u>Text</u>	<u>2</u>
10a)	<u>Court Code</u>	<u>Text</u>	<u>2</u>
10b)	<u>Court County</u>	<u>Text</u>	<u>35</u>
10c)	<u>Court Docket Number</u>	<u>Text</u>	<u>40</u>
10d)	<u>Amount Awarded by Circuit Court</u>	<u>Currency</u>	
10e)	<u>Award Date</u>	<u>Text</u>	<u>10</u>
10f)	<u>Circuit Court Appealed</u>	<u>Text</u>	<u>1</u>
	<u>Result of Appeal</u>	<u>Text</u>	<u>25</u>
10g)	<u>Other Post-Trial Motions</u>	<u>Text</u>	<u>25</u>
10h)	<u>Economic Damages</u>	<u>Currency</u>	
10i)	<u>Non-Economic Damages</u>	<u>Currency</u>	
11a)	<u>Total Indemnity Paid/Payable by Insurer</u>	<u>Currency</u>	
11b)	<u>Economic Damages</u>	<u>Currency</u>	
11c)	<u>Non-Economic Damages</u>	<u>Currency</u>	
11d)	<u>LAE to Defense Counsel</u>	<u>Currency</u>	
11e)	<u>All Other LAE</u>	<u>Currency</u>	
11f)	<u>Total Indemnity Insurer</u>	<u>Currency</u>	
11g)	<u>Other Indemnity Insurer Deductible</u>	<u>Currency</u>	
	<u>Other Indemnity Insurer Excess Limits</u>	<u>Currency</u>	

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	<u>Other Indemnity Insurer SIR</u>	<u>Currency</u>
	<u>Other Indemnity Insurer Stop Loss</u>	<u>Currency</u>
11h)	<u>Claimed Medical Expense</u>	<u>Currency</u>
11i)	<u>Claimed Wage Loss</u>	<u>Currency</u>

Quarterly Submission Mailing InstructionsDisk Instructions

Disks must be clearly identified by external labels containing all of the following information:

Insurer Name
Insurer FEIN Number
Disk File Name
Filing Date
Disk Contact Person and Telephone number

Example:

ABC Insurance Company of America
2005 1st Qtr Open/Closed Report Data
Date: 3/31/ 2005
Joe Smith (800) 555-1234

Mailing Requirements

The disk(s) should be enclosed in rigid protective packaging that will prevent bending and other destructive exposures that might be experienced in normal mail handling.

The outer package shall be clearly labeled to indicate computer diskettes are enclosed.

Address submission to: Illinois Department of Financial and Professional Regulation
Division of Insurance
IMPLIUCR data
320 West Washington, 4th Floor
Springfield IL 62767
Attn.: Casualty Actuarial Section

All fields are self explanatory except as follows:

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- a) ~~(Part 928.Exhibit A, 2d) Enter original closure date if the claim is a reopened claim.~~
- b) ~~(Part 928.Exhibit A, 4a) Profession or business code:~~
- 1) ~~physicians and surgeons;~~
 - 2) ~~hospitals;~~
 - 3) ~~other medical professionals, but please specify the type of profession;~~
 - 4) ~~other health care facilities.~~
- e) ~~(Part 928.Exhibit A, 4b) Specialty Code is the individual industry classification code describing specific type of practice. If industry classification codes are other than ISO, please provide a description of classification codes being filed. Once a description of all classification codes is filed, it is only necessary to file descriptions of new or changed classification codes.~~
- d) ~~(Part 928.Exhibit A, 4c) Type of practice code:~~
- 1) ~~institutional (academic);~~
 - 2) ~~professional corporation or partnership (group);~~
 - 3) ~~self-employed;~~
 - 4) ~~employed physician;~~
 - 5) ~~employed nurse;~~
 - 6) ~~all other employees;~~
 - 7) ~~intern or resident.~~
- e) ~~(Part 928.Exhibit A, 5b) Enter Yes or No, indicating if insured physician is a foreign medical graduate.~~
- f) ~~(Part 928.Exhibit A, 5c) Enter country in which primary medical education was received if other than U.S.~~

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~~g) (Part 928.Exhibit A, 6a) Enter the appropriate code for the place where the principal injury occurred:~~

- ~~1) hospital inpatient facility;~~
 - ~~2) emergency room;~~
 - ~~3) hospital outpatient facility;~~
 - ~~4) nursing home;~~
 - ~~5) physician's office;~~
 - ~~6) patient's home;~~
 - ~~7) other outpatient facility;~~
 - ~~8) other, but please provide a description;~~
 - ~~9) other hospital/institutional location.~~
- ~~Note: Use only one code.~~

~~h) (Part 928.Exhibit A, 7b) Enter appropriate code if location of institutional injury was:~~

- ~~1) patient's room;~~
- ~~2) labor or delivery room;~~
- ~~3) operating suite;~~
- ~~4) recovery room;~~
- ~~5) critical care unit;~~
- ~~6) special procedure room;~~
- ~~7) nursery;~~

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- ~~8) radiology;~~
- ~~9) physical therapy department.~~
- ~~i) (Part 928.Exhibit A, 9a) Enter the total number of defendants (persons and institutions other than John Does) involved in claim.~~
- ~~j) (Part 928.Exhibit A, 9b) Enter the appropriate code(s) if a derivative claim (on behalf of someone other than the medically injured) was made by:

 - ~~1) spouse;~~
 - ~~2) children;~~
 - ~~3) parent;~~
 - ~~4) personal representative.~~~~
- ~~k) (Part 928.Exhibit B, 14a and 14b) Use nomenclature and/or descriptions to enter the final diagnosis for which treatment was sought or rendered (actual abnormal condition) and also the misdiagnosis, if any, of the patient's actual condition.~~
- ~~l) (Part 928.Exhibit B, 15) Use nomenclature and/or descriptions of the procedure used. Include methods of anesthesia, or name of drug used for treatment, with detail of administration and type of adverse effect where applicable.~~
- ~~m) (Part 928.Exhibit B, 16a) Use nomenclature and/or descriptions of the injury. Include type of adverse effect from drugs where applicable.~~
- ~~n) (Part 928.Exhibit B, 16b) Enter one digit code for severity of injury from scale provided below. Enter the code for the most serious injury if several are involved.~~

Severity of Injury Scale	Examples
1) Emotional only	Fright, no physical damage.
Temporary 2) Insignificant	Lacerations, contusions, minor scars, rash. No delay.

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	3) Minor	Infections, misset fracture, fall in hospital. Recovery delayed.
	4) Major	Burns, surgical material left, drug side-effect, brain damage. Recovery delayed.
	5) Major	Loss of fingers, loss or damage to organs. Include non disabling injuries.
	6) Significant	Deafness, loss of limb, loss of eye, loss of one kidney or lung.
Permanent	7) Major	Paraplegia, blindness, loss of two limbs, brain damage.
	8) Grave	Quadriplegia, severe brain damage, lifelong care or fatal prognosis.
	9) Death	

~~o) (Part 928.Exhibit B, 17a) Enter the appropriate misadventure code(s) if the procedure was:~~

- ~~1) not adequately indicated;~~
- ~~2) contraindicated;~~
- ~~3) there was a more appropriate alternative;~~
- ~~4) delayed;~~
- ~~5) improperly performed;~~
- ~~6) not performed;~~
- ~~7) occasioned by misdiagnosis;~~
- ~~8) inadequate assessment;~~
- ~~9) misidentification of the patient;~~
- ~~10) delay in notifying physician;~~

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- ~~11) failure to notice an improper order;~~
- ~~12) failure to obtain a proper order;~~
- ~~13) failure to instruct patient.~~
- ~~p) (Part 928.Exhibit B, 17b) Enter the appropriate code if the following misadventures in diagnosis caused or aggravated the injury:~~
 - ~~1) delay in diagnosis;~~
 - ~~2) misdiagnosis of the abnormal condition;~~
 - ~~3) misdiagnosis in the absence of an abnormal condition.~~
- ~~q) (Part 928.Exhibit B, 18a) Enter the appropriate code(s) if any other person(s) caused or contributed to the injury:~~
 - ~~1) attending physician;~~
 - ~~2) house staff;~~
 - ~~3) consultant;~~
 - ~~4) nurse R.N.;~~
 - ~~5) nurse L.P.N. or L.V.N.;~~
 - ~~6) aide;~~
 - ~~7) orderly;~~
 - ~~8) pharmacist;~~
 - ~~9) radiologist;~~
 - ~~10) radiology technician;~~
 - ~~11) anesthesiologist;~~

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- ~~12) — anesthetist;~~
 - ~~13) — pathologist;~~
 - ~~14) — laboratory technician;~~
 - ~~15) — physician's assistant;~~
 - ~~16) — O.R. technician;~~
 - ~~17) — physical therapist;~~
 - ~~18) — inhalation therapist;~~
 - ~~19) — other therapists;~~
 - ~~20) — other technicians;~~
 - ~~21) — dietitian;~~
 - ~~22) — maintenance personnel;~~
 - ~~23) — engineer;~~
 - ~~24) — administrator;~~
 - ~~25) — other personnel;~~
 - ~~26) — patient;~~
 - ~~27) — another patient.~~
- ~~r) — (Part 928.Exhibit B, 18b) Enter the appropriate code(s) if one or more of the following factors were associated issues in the claim:~~
- ~~1) — abandonment;~~
 - ~~2) — premature discharge from institution;~~
 - ~~3) — false imprisonment;~~

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- ~~4) — lack or delay of consultation;~~
- ~~5) — lack of supervision;~~
- ~~6) — breach of confidentiality;~~
- ~~7) — failure to prevent an abnormal condition;~~
- ~~8) — failure to accomplish intended result;~~
- ~~9) — failure to conform with regulation or statutory law;~~
- ~~10) — lack of adequate facilities or equipment;~~
- ~~11) — laboratory error;~~
- ~~12) — pharmacy error;~~
- ~~13) — products liability;~~
- ~~14) — failure to timely disclose;~~
- ~~15) — failure to provide warning instructions;~~
- ~~16) — lack of consent from proper person;~~
- ~~17) — inadequate information for informed consent;~~
- ~~18) — procedure exceeded consensual understanding;~~
- ~~19) — breach of contract;~~
- ~~20) — warranty;~~
- ~~21) — assault and battery;~~
- ~~22) — res ipsa loquitur;~~
- ~~23) — emergency equipment;~~

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- ~~24) — cooling devices;~~
- ~~25) — heating devices;~~
- ~~26) — cautery equipment;~~
- ~~27) — x-ray equipment;~~
- ~~28) — radiation therapy equipment;~~
- ~~29) — traction equipment;~~
- ~~30) — anesthesia equipment;~~
- ~~31) — operative equipment;~~
- ~~32) — surgical instruments & materials;~~
- ~~33) — food preparation equipment;~~
- ~~34) — laboratory equipment;~~
- ~~35) — laboratory mislabeling;~~
- ~~36) — laboratory computation error;~~
- ~~37) — inadequate laboratory specimen;~~
- ~~38) — lost laboratory specimen;~~
- ~~39) — laboratory interpretation;~~
- ~~40) — laboratory reporting error;~~
- ~~41) — laboratory delay in reporting;~~
- ~~42) — sterilization of equipment;~~
- ~~43) — skin preparation;~~

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- ~~44) aseptic technique;~~
- ~~45) isolation for infection control;~~
- ~~46) records;~~
- ~~47) billing and collection;~~
- ~~48) inter-professional relations;~~
- ~~49) vicarious liability;~~
- ~~50) statute of limitations;~~
- ~~51) punitive damages.~~
- ~~s) (Part 928.Exhibit B, 18c) Enter the appropriate coverage code for the type of policy covering the claim:
 - ~~1) claims made basic (policy covers all claims made during the term of the policy);~~
 - ~~2) claims made tail (policy covers all claims made during the policy term for events which occurred during a designated previous policy term);~~
 - ~~3) occurrence (policy covers all claims whenever presented for events which occur during the policy term).~~~~
- ~~t) (Part 928.Exhibit B, 20b) Enter final method of claim disposition:
 - ~~1) settled by parties;~~
 - ~~2) disposed of by a court;~~
 - ~~3) disposed of by binding arbitration.~~~~
- ~~u) (Part 928.Exhibit B, 20c) If settlement by agreement of the parties, enter the appropriate settlement code:~~

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- ~~1) before filing suit or demanding hearing;~~
 - ~~2) before trial or hearing;~~
 - ~~3) during trial or hearing;~~
 - ~~4) after trial or hearing, but before judgment or decision (award);~~
 - ~~5) after judgment or decision, but before appeal;~~
 - ~~6) during appeal;~~
 - ~~7) after appeal;~~
 - ~~8) claim or suit abandoned;~~
 - ~~9) during review panel or non-binding arbitration.~~
- ~~v) (Part 928.Exhibit B, 21a) Enter the appropriate court disposition code:~~
- ~~0) no court proceedings;~~
 - ~~1) directed verdict for plaintiff;~~
 - ~~2) directed verdict for defendant;~~
 - ~~3) judgment notwithstanding the verdict (plaintiff);~~
 - ~~4) judgment notwithstanding the verdict (defendant);~~
 - ~~5) judgment for the plaintiff;~~
 - ~~6) judgment for the defendant;~~
 - ~~7) decision for plaintiff on appeal;~~
 - ~~8) decision for defendant on appeal;~~
 - ~~9) all other.~~

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- ~~w) — (Part 928. Exhibit B, 21b) Enter appropriate binding arbitration code:~~
- ~~0) — claim not subject to arbitration;~~
 - ~~1) — claim subject to arbitration, but previously coded disposition reached in lieu of award;~~
 - ~~2) — award for plaintiff;~~
 - ~~3) — award for defendant.~~
- ~~x) — (Part 928. Exhibit B, 21c) If a review panel or non-binding arbitration was used in disposition, enter appropriate code:~~
- ~~1) — finding for plaintiff;~~
 - ~~2) — finding for defendant.~~
- ~~y) — (Part 928. Exhibit B, 23) Mark appropriate box if this amount was a deductible paid by the insured or indemnity paid under an excess limits policy by another insurer.~~
- ~~z) — (Part 928. Exhibit B, 25) Enter fees paid to defense counsel for this defendant.~~
- ~~aa) — (Part 928. Exhibit B, 26) Enter filing fees, telephone charges, photocopy fees, expenses of defense counsel, etc.~~
- ~~bb) — (Part 928. Exhibit B, 28) Enter best estimate of future medical expense if it appears the claimant will incur expenses in the future.~~
- ~~cc) — (Part 928. Exhibit B, 30) Enter best estimate of future wage loss if it appears the claimant will incur wage loss in the future.~~
- ~~dd) — (Part 928. Exhibit B, 32) If a reserve, annuity, trust fund or similar mechanism was established to provide future periodic payments, enter total amount thereof.~~

(Source: Amended at 30 Ill. Reg. 19288, effective December 4, 2006)

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Section 928.EXHIBIT D Illinois Medical Professional Liability Insurance Uniform Claims Reporting (IMPLIUCR) – Batch Reporting Requirements and Navigational User's Guide

State of Illinois
Department of Financial and Professional Regulation
Division of Insurance

May 2006

Illinois Medical Professional Liability Insurance Uniform Claims Reporting (IMPLIUCR)
Batch Requirements and Navigational User's Guide

To assist insurers and other reporting entities with electronic reporting, the Illinois Department of Financial and Professional Regulation-Division of Insurance (DOI) has created an electronic reporting application, which will be provided free of charge. Reporting entities will choose one of the two processes depending on how they prefer to file. One process will allow for data entry claim reporting and contain drop downs with choices. The other process will allow for batch reporting. This is the navigational user's guide for batch reporting.

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General Submission Guidelines

- 1) Data Collection Information
 - a) Data must be submitted on 3½" size diskette or compact disk (CD-R/RW).
 - b) Disks must conform to the filing specifications contained within this document.
- 2) Guidelines for Data Collection
 - a) Submission of data files must meet the filing specifications prescribed in this document.

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- b) DOI has created an electronic reporting application to help reporting entities enter and edit data and to create the quarterly claims report data file.

To access the on-line user guides for the electronic reporting applications, you must download Adobe Acrobat Reader software from URL: <http://www.adobe.com/products/acrobat/main.html> to access the on-line user guides.

- c) If you have not received a copy of the electronic reporting application, you can download the software from the following URL: <http://www.ins.state.il.us/exe/IMPLIUCRzip.exe>

3) Data Format Standards

To simplify aspects of the data collection process for the DOI, data and file formats for diskettes will consist of a delimited common ASCII representation.

4) File Description and Reporting Requirements (edit program process).

DOI has adopted the following specifications to be used in formatting the claims report data file information prior to using the "edit program".

Tab or Comma delimited file:

- File one report for each defendant you insure.
- Include claims closed without payment.
- When an item calls for a dollar amount and no amount is involved, enter 0 in the space.
- Record all amounts in whole dollars.
- All dates shall be in the format MM/DD/YYYY and have leading zeroes.
Example: 01/01/2001 = January 1, 2001
- All names of individuals shall follow the following format:
Last Name Suffix, First Name MI. (e.g., Public Jr, John Q.)
- Insured Individual's name format:
Last Name Suffix, First Name MI. Professional Designation (e.g., Public Jr, John Q. MD)
- All fields for a given record, including fields that contain no data, shall have a Tab or Comma with a "full quote" text qualifier separator. There are a total of 75 fields that must be accounted for in each record (report).

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General Submission Guidelines

Each of the following fields must have a Tab or Comma separator:

- | | |
|---|---|
| 1) <u>Insurer Name,</u> | 39) <u>Person Responsible Title,</u> |
| 2) <u>Insurer FEIN,</u> | 40) <u>Contact Person Name,</u> |
| 3) <u>Claim ID,</u> | 41) <u>Contact Person Phone,</u> |
| 4) <u>Coverage Code,</u> | 42) <u>Contact Person Email Address,</u> |
| 5) <u>Injury Date,</u> | 43) <u>Attorney Name,</u> |
| 6) <u>Reported Date,</u> | 44) <u>Attorney City,</u> |
| 7) <u>Opened Date,</u> | 45) <u>Attorney State,</u> |
| 8) <u>Re-opened Date,</u> | 46) <u>Nature and Substance of Claim,</u> |
| 9) <u>Original Closure Date,</u> | 47) <u>Act or Omission Codes,</u> |
| 10) <u>Original Claim ID*,</u> | 48) <u>Severity of Injury Code,</u> |
| 11) <u>Insured Profession or Business Code,</u> | 49) <u>Date Claim Closed,</u> |
| 12) <u>Insured Profession Description,</u> | 50) <u>Disposition Code,</u> |
| 13) <u>Insured Practice Code,</u> | 51) <u>Settlement Code,</u> |
| 14) <u>Insured Name,</u> | 52) <u>Review Panel or Non-Binding</u> |
| 15) <u>Insured IL License Number,</u> | <u>Arbitration Code,</u> |
| 16) <u>Insured DOB,</u> | 53) <u>Binding Arbitration Code,</u> |
| 17) <u>Insured Specialty Code,</u> | 54) <u>Court Code,</u> |
| 18) <u>Insured Board Certified,</u> | 55) <u>Court County,</u> |
| 19) <u>Name of Board,</u> | 56) <u>Court Docket Number,</u> |
| 20) <u>Insured County,</u> | 57) <u>Amount Awarded by Circuit Court,</u> |
| 21) <u>Injury Place Code,</u> | 58) <u>Award Date,</u> |
| 22) <u>Injury Place Description,</u> | 59) <u>Circuit Court Appealed,</u> |
| 23) <u>Injury Place Location within</u> | 60) <u>Result of Appeal,</u> |
| <u>Institution Code,</u> | 61) <u>Other Post-Trial Motions,</u> |
| 24) <u>Injury Place Location in</u> | 62) <u>Court Economic Damages Awarded,</u> |
| <u>Institution Description,</u> | 63) <u>Court Non-Economic Damages</u> |
| 25) <u>Injury Place Institution Name,</u> | <u>Award,</u> |
| 26) <u>Injury Place County,</u> | 64) <u>Total Indemnity Paid/Payable by</u> |
| 27) <u>Injured Name,</u> | <u>Insurer,</u> |
| 28) <u>Injured Person's Gender,</u> | 65) <u>Economic Damages,</u> |
| 29) <u>Injured Person's Age Category,</u> | 66) <u>Non-Economic Damages,</u> |
| 30) <u>Injured Person's SSN,</u> | 67) <u>LAE to Defense Counsel,</u> |
| 31) <u>Injured Person's County Residence,</u> | 68) <u>All Other LAE,</u> |

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<u>32) Total Number Defendants,</u>	<u>69) Total Indemnity Insurer,</u>
<u>33) Companion Claim ID A,</u>	<u>70) Other Indemnity Deductible,</u>
<u>34) Companion Claim ID B,</u>	<u>71) Other Indemnity Excess Limits,</u>
<u>35) Companion Claim ID C,</u>	<u>72) Other Indemnity SIR,</u>
<u>36) Companion Claim ID D,</u>	<u>73) Other Indemnity Stop Loss,</u>
<u>37) Companion Claim ID E,</u>	<u>74) Claimed Medical Expense,</u>
<u>38) Person Responsible,</u>	<u>75) Claimed Wage Loss,</u>

* If claim re-opened and a new Claim ID was assigned.

Examples using fields 1, 2, 3, 4, 5, 6, 7, 8

Example Tab delimited file:

InsurerName[tab]12-
1234567[tab]220BBA[tab]1[tab]01/09/2001[tab]01/09/2001[tab]01/09/2001[tab]01/09/2001[tab] etc ...

Example Comma delimited (with a "full quote" text qualifier) file:

"InsurerName","12-
1234567","220BBA","1","01/09/2001","01/09/2001","01/09/2001","01/09/2001" etc ...

5) Disk types

Disks submitted to the DOI shall be the 3½" size or Compact Disk (CD-R/RW) from an IBM Personal computer or compatible. Disks will not be returned.

6) Computer Disk File Structures and Naming Conventions

Each disk submitted shall contain a physical file for Uniform Claims Reports.

A disk file name will be made up of two portions, a data name and an extension. The extension name will always be "txt". The file name of each file on the diskette will be:

DOI-IMPLIUCR and the Quarter and year being filed

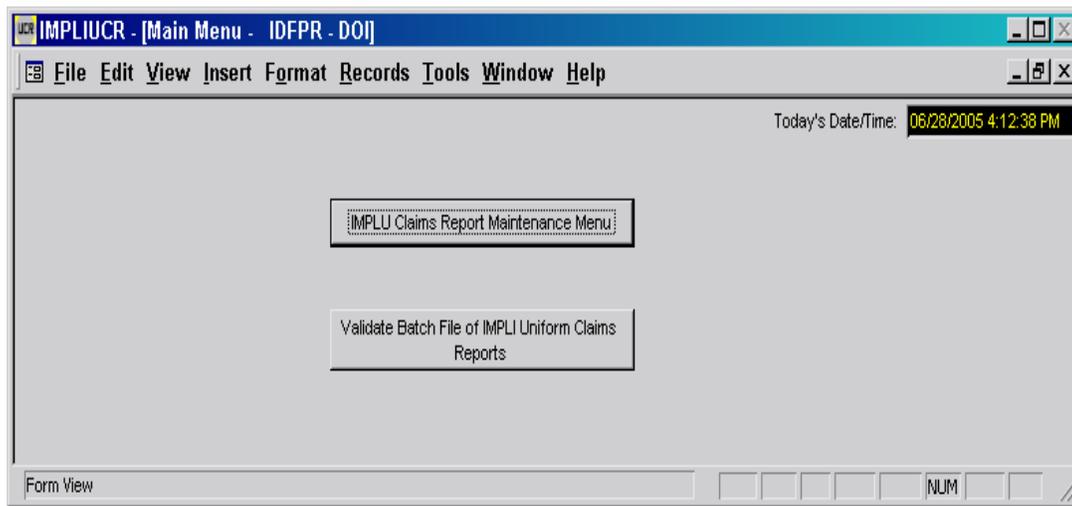
Example with additional information: DOI-IMPLIUCR-1stQtr2004.txt

NOTE: The submission file on the disk will be created for you by the IMPLIUCR.MDE application.

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- 7) TO BEGIN: Load the application (see installation instructions). Then import the claims data file Open/ClosedClaimsData.txt) you created. Use the "Validate Batch File of IMPLI Uniform Claims Reports" button on the IMPLIUCR application's main menu to import and validate your data.



Quarterly Claim Report Submission – Data Field Names and Report Format

For Field/Data Definitions and Requirements see Exhibit B of this Part.

Company **FEIN** and **Claim ID** (Key Fields) are combined to make a unique claim report.

RI = Reporting Instructions numbering system reference.

<u>Pos/RI</u>	<u>Column Name</u>	<u>Type</u>	<u>Maximum Size</u>
<u>1/1a</u>	<u>Insurer Name</u>	<u>Text</u>	<u>50</u>
<u>2/1b</u>	<u>Insurer FEIN</u>	<u>Text</u>	<u>11</u>
<u>3/2a</u>	<u>Claim ID</u>	<u>Text</u>	<u>35</u>
<u>4/2b</u>	<u>Coverage Code</u>	<u>Text</u>	<u>2</u>
<u>5/2c</u>	<u>Injury Date</u>	<u>Text</u>	<u>10</u>
<u>6/2d</u>	<u>Reported Date</u>	<u>Text</u>	<u>10</u>
<u>7/2e</u>	<u>Opened Date</u>	<u>Text</u>	<u>10</u>
<u>8/2f</u>	<u>Re-opened Date</u>	<u>Text</u>	<u>10</u>
<u>9/2g</u>	<u>Original Closure Date</u>	<u>Text</u>	<u>10</u>
<u>10</u>	<u>Original Claim ID*</u>	<u>Text</u>	<u>35</u>
<u>11/3a</u>	<u>Insured Profession or Business Code</u>	<u>Text</u>	<u>37</u>

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<u>12/3a</u>	<u>Insured Profession Description</u>	<u>Text</u>	<u>30</u>
<u>13/3b</u>	<u>Insured Practice Code</u>	<u>Text</u>	<u>2</u>
<u>14/3c</u>	<u>Insured Name</u>	<u>Text</u>	<u>64</u>
	<u>Format: "Last Suffix, First MI, Profession"</u>		
	<u>Last</u>	<u>Text</u>	<u>40</u>
	<u>Suffix</u>	<u>Text</u>	<u>4</u>
	<u>Comma</u>	<u>Text</u>	<u>1</u>
	<u>First</u>	<u>Text</u>	<u>15</u>
	<u>MI</u>	<u>Text</u>	<u>1</u>
	<u>Period</u>	<u>Text</u>	<u>1</u>
	<u>Professional Designation (e.g., MD)</u>	<u>Text</u>	<u>4</u>
<u>15/3d</u>	<u>Insured License Number</u>	<u>Text</u>	<u>15</u>
<u>16/3e</u>	<u>Insured DOB</u>	<u>Text</u>	<u>10</u>
<u>17/3f</u>	<u>Insured Specialty Code</u>	<u>Text</u>	<u>5</u>
<u>18/3g</u>	<u>Insured Board Certified</u>	<u>Text</u>	<u>2</u>
<u>19/3g</u>	<u>Name of Board</u>	<u>Text</u>	<u>25</u>
<u>20/3h</u>	<u>Insured County</u>	<u>Text</u>	<u>30</u>
<u>21/4a</u>	<u>Injury Place</u>	<u>Text</u>	<u>59</u>
<u>22/4a</u>	<u>Injury Place Description</u>	<u>Text</u>	<u>30</u>
<u>23/4b</u>	<u>Injury Place Location within Institution Code Text</u>	<u>Text</u>	<u>2</u>
<u>24/4b</u>	<u>Injury Place Location in Institution Description Text</u>	<u>Text</u>	<u>25</u>
<u>25/4c</u>	<u>Injury Place Institution Name</u>	<u>Text</u>	<u>40</u>
<u>26/4d</u>	<u>Injury Place County</u>	<u>Text</u>	<u>30</u>
<u>27/5a</u>	<u>Injured Name</u>	<u>Text</u>	<u>59</u>
	<u>Format: "Last Suffix, First MI."</u>		
	<u>Last</u>	<u>Text</u>	<u>40</u>
	<u>Suffix</u>	<u>Text</u>	<u>4</u>
	<u>Comma</u>	<u>Text</u>	<u>1</u>
	<u>First</u>	<u>Text</u>	<u>15</u>
	<u>MI</u>	<u>Text</u>	<u>1</u>
	<u>Period</u>	<u>Text</u>	<u>1</u>
<u>28/5b</u>	<u>Injured Gender</u>	<u>Text</u>	<u>1</u>
<u>29/5c</u>	<u>Injured Person's Age Category</u>	<u>Text</u>	<u>1</u>
<u>30/5d</u>	<u>Injured Person's SSN</u>	<u>Text</u>	<u>11</u>
<u>31/5e</u>	<u>Injured Person's County Residence</u>	<u>Text</u>	<u>30</u>
<u>32/6a</u>	<u>Total Number Defendants</u>	<u>Text</u>	<u>4</u>
<u>33/6b</u>	<u>Companion Claim ID A</u>	<u>Text</u>	<u>35</u>
<u>34/6b</u>	<u>Companion Claim ID B</u>	<u>Text</u>	<u>35</u>
<u>35/6b</u>	<u>Companion Claim ID C</u>	<u>Text</u>	<u>35</u>
<u>36/6b</u>	<u>Companion Claim ID D</u>	<u>Text</u>	<u>35</u>

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<u>37/6b</u>	<u>Companion Claim ID E</u>	<u>Text</u>	<u>35</u>
<u>38/7a</u>	<u>Person Responsible</u>	<u>Text</u>	<u>64</u>
	<u>Format: "Last Suffix, First MI."</u>		
	<u>Last</u>	<u>Text</u>	<u>40</u>
	<u>Suffix</u>	<u>Text</u>	<u>4</u>
	<u>Comma</u>	<u>Text</u>	<u>1</u>
	<u>First</u>	<u>Text</u>	<u>15</u>
	<u>MI</u>	<u>Text</u>	<u>1</u>
	<u>Period</u>	<u>Text</u>	<u>1</u>
<u>39/7b</u>	<u>Person Responsible Title</u>	<u>Text</u>	<u>30</u>
<u>40/7c</u>	<u>Contact Person</u>	<u>Text</u>	<u>100</u>
	<u>Format: "Last Suffix, First MI."</u>		
	<u>Last</u>	<u>Text</u>	<u>40</u>
	<u>Suffix</u>	<u>Text</u>	<u>4</u>
	<u>Comma</u>	<u>Text</u>	<u>1</u>
	<u>First</u>	<u>Text</u>	<u>15</u>
	<u>MI</u>	<u>Text</u>	<u>1</u>
	<u>Period</u>	<u>Text</u>	<u>1</u>
<u>41/7d</u>	<u>Contact Person Phone</u>	<u>Text</u>	<u>20</u>
<u>42/7e</u>	<u>Contact Person Email Address</u>	<u>Text</u>	<u>40</u>
<u>43/8a</u>	<u>Attorney Name/Law Firm</u>	<u>Text</u>	<u>64</u>
	<u>Format: "Last Suffix, First MI."</u>		
	<u>Last</u>	<u>Text</u>	<u>40</u>
	<u>Suffix</u>	<u>Text</u>	<u>4</u>
	<u>Comma</u>	<u>Text</u>	<u>1</u>
	<u>First</u>	<u>Text</u>	<u>15</u>
	<u>MI</u>	<u>Text</u>	<u>1</u>
	<u>Period</u>	<u>Text</u>	<u>1</u>
<u>44/8b</u>	<u>Attorney City</u>	<u>Text</u>	<u>16</u>
<u>45/8c</u>	<u>Attorney State</u>	<u>Text</u>	<u>2</u>
<u>46/9a</u>	<u>Nature and Substance of Claim</u>	<u>Text</u>	<u>150</u>
<u>47/9b</u>	<u>Act or Omission Codes</u>	<u>Text</u>	<u>255</u>
<u>48/9c</u>	<u>Severity of Injury Code</u>	<u>Text</u>	<u>2</u>
<u>49/9d</u>	<u>Date Claim Closed</u>	<u>Text</u>	<u>10</u>
<u>50/9e</u>	<u>Disposition Code</u>	<u>Text</u>	<u>2</u>
<u>51/9f</u>	<u>Settlement Code</u>	<u>Text</u>	<u>2</u>
<u>52/9g</u>	<u>Review Panel or Non-Binding Arbitration Code</u>	<u>Text</u>	<u>2</u>
<u>53/9h</u>	<u>Binding Arbitration Code</u>	<u>Text</u>	<u>2</u>
<u>54/10a</u>	<u>Court Code</u>	<u>Text</u>	<u>2</u>
<u>55/10b</u>	<u>Court County</u>	<u>Text</u>	<u>35</u>

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<u>56/10c</u>	<u>Court Docket Number</u>	<u>Text</u>	<u>40</u>
<u>57/10d</u>	<u>Amount Awarded by Circuit Court</u>	<u>Currency</u>	
<u>58/10e</u>	<u>Award Date</u>	<u>Text</u>	<u>10</u>
<u>59/10f</u>	<u>Circuit Court Appealed</u>	<u>Text</u>	<u>1</u>
<u>60/10f</u>	<u>Result of Appeal</u>	<u>Text</u>	<u>25</u>
<u>61/10g</u>	<u>Other Post-Trial Motions</u>	<u>Text</u>	<u>25</u>
<u>62/10h</u>	<u>Court Economic Damages Awarded</u>	<u>Currency</u>	
<u>63/10i</u>	<u>Court Non-Economic Damages Awarded</u>	<u>Currency</u>	
<u>64/11a</u>	<u>Total Indemnity Paid/Payable by Insurer</u>	<u>Currency</u>	
<u>65/11b</u>	<u>Economic Damages</u>	<u>Currency</u>	
<u>66/11c</u>	<u>Non-Economic Damages</u>	<u>Currency</u>	
<u>67/11d</u>	<u>LAE to Defense Counsel</u>	<u>Currency</u>	
<u>68/11e</u>	<u>All Other LAE</u>	<u>Currency</u>	
<u>69/11f</u>	<u>Total Indemnity Insurer</u>	<u>Currency</u>	
<u>70/11g</u>	<u>Other Indemnity Insurer Deductible</u>	<u>Currency</u>	
<u>71/11g</u>	<u>Other Indemnity Insurer Excess Limits</u>	<u>Currency</u>	
<u>72/11g</u>	<u>Other Indemnity Insurer SIR</u>	<u>Currency</u>	
<u>73/11g</u>	<u>Other Indemnity Insurer Stop Loss</u>	<u>Currency</u>	
<u>74/11h</u>	<u>Claimed Medical Expense</u>	<u>Currency</u>	
<u>75/11i</u>	<u>Claimed Wage Loss</u>	<u>Currency</u>	

* If claim reopened and a new Claim ID was assigned.

Application Start Up Instructions and System Menu

Application Startup Instructions

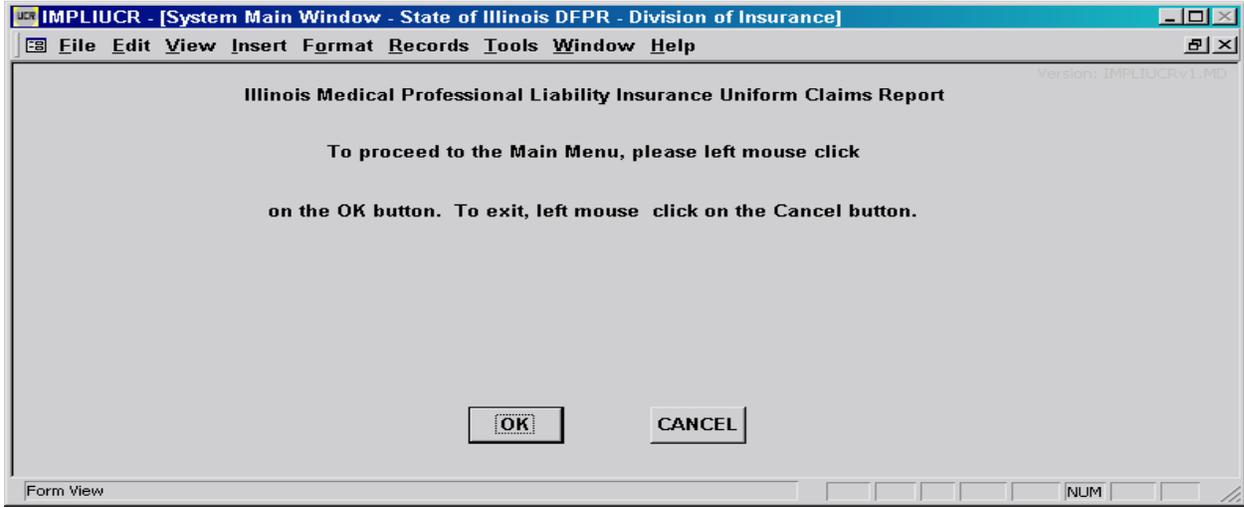
Left mouse click on Start, mouse over the Programs menu caption, look for the IMPLIUCR caption and mouse over.



To the right of the IMPLIUCR caption you should see the ACCESS key ICON  and IMPLIUCR caption. Left mouse click on the IMPLIUCR caption to gain access to the System Main Window as displayed below.

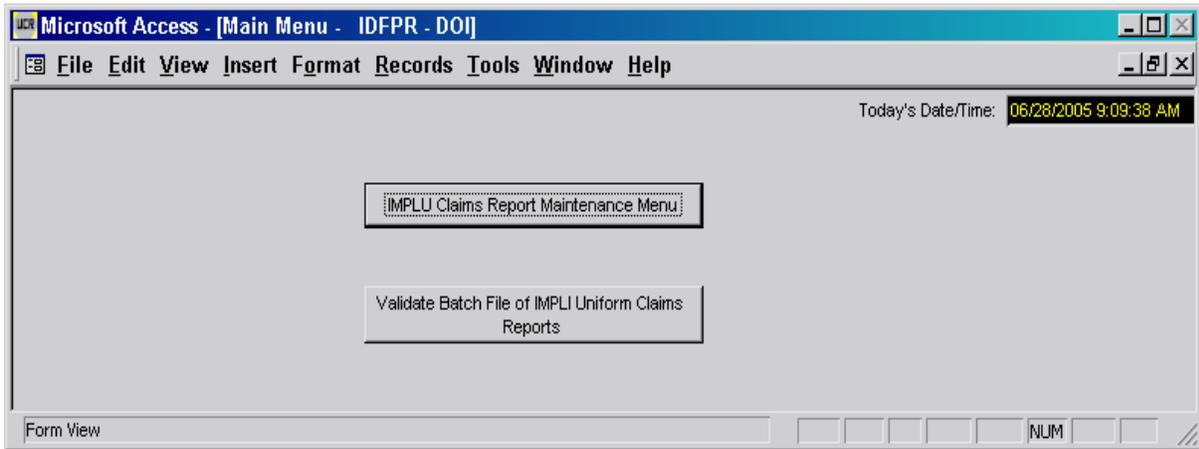
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Left mouse click on the "OK" button to gain access to the IMPLIUCR Main Menu. Left mouse click on the "Cancel" button to exit this application.

Import of Industry Claim Reports and Validation Process



(Figure-1)

The IDFPR-Division of Insurance "IMPLIUCR Requirements Main Menu", shown above, is the starting point from which you can enter hard copy claims report information into a medical malpractice database or process batch quarterly claims report data.

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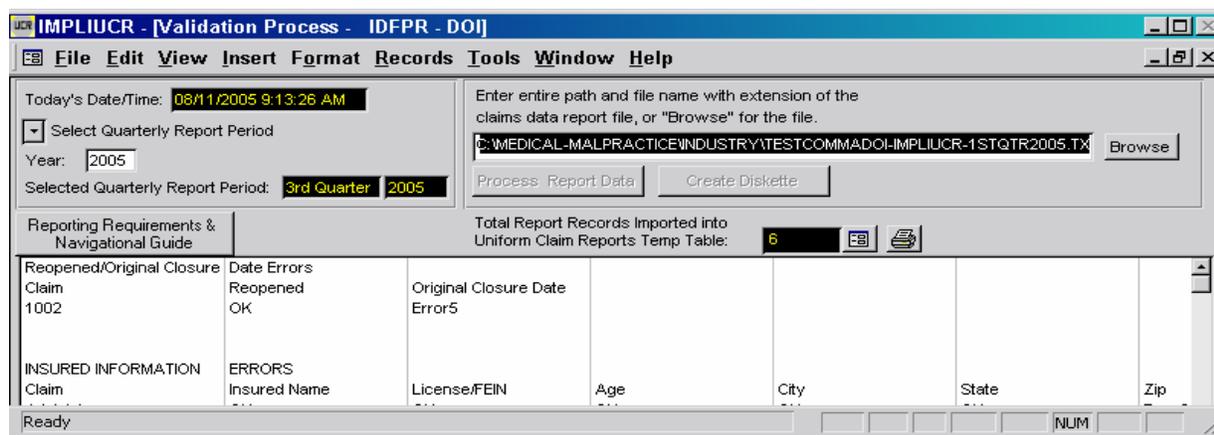
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Validate Batch File of IMPLI Uniform Claims Reports

[Left mouse click on this button to process submitted claims report files.](#)

IMPLU Claims Report Maintenance Menu

[Left mouse on this button to gain access to the data entry processes for reporting claim reports. \(See IMPLIUCR Online Industry User's Guide for help.\)](#)



[The IDFPR-Division of Insurance "IMPLIUCR Validation Process" window, shown above, is the starting point from which you can validate multiple claim reports. First select quarterly reporting period and enter reporting year if needed. Then process a claim data report file by entering the entire path and file name with extension. Example: "C:\IMPLIUCR\ClosedClaims1stQtrData.txt", or use the "BROWSE" button to select a file name \(see Figure-2 below\). Selecting the file you wish to process you will automatically return to the "IMPLIUCR Validation Process", where you can left mouse click on the "Process Report Data" button, if enabled, to begin the validation process. A list of ERRORS and associated Claim Numbers, if any, will be displayed when the import and validation process has completed. Left mouse clicking on any displayed Claim Number with errors will take you to a claim report maintenance window \(see Figure-1, page 13\) from which you can correct indicated errors.](#)

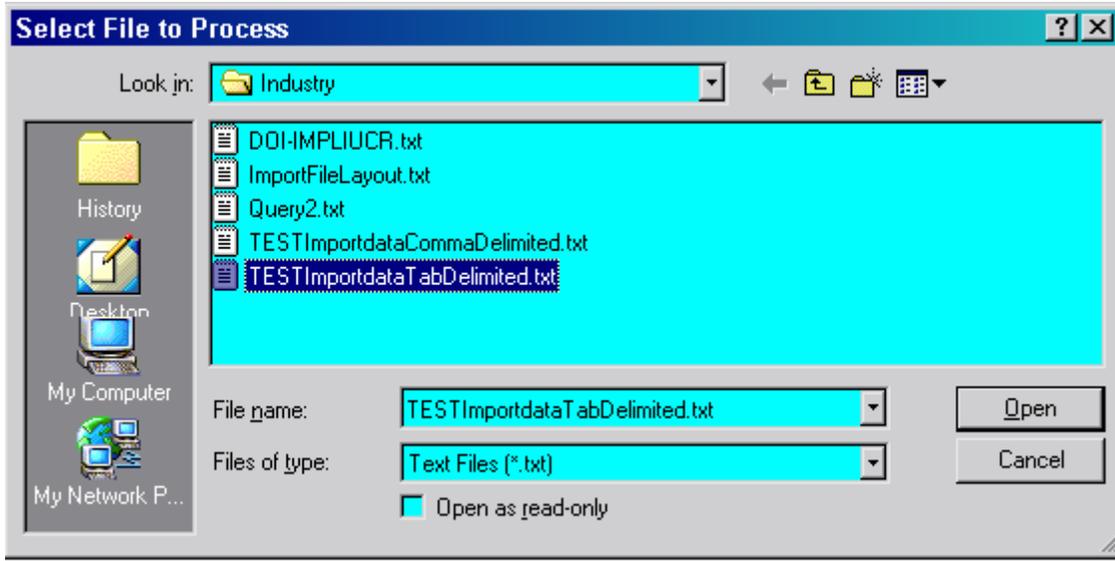
[Left mouse clicking on this button !\[\]\(ff54eadb1b7f07eee39f4e3a2fb45293_img.jpg\) will take you to a datasheet view \(see Figure-2, page 13\) from which you can correct indicated errors.](#)

[Left mouse clicking on this button !\[\]\(55b9943f07a9393ea278a94e12364d05_img.jpg\) will print an error report similar to the one located in "IMPLIUCR Validation Process" \(Figure -1\).](#)

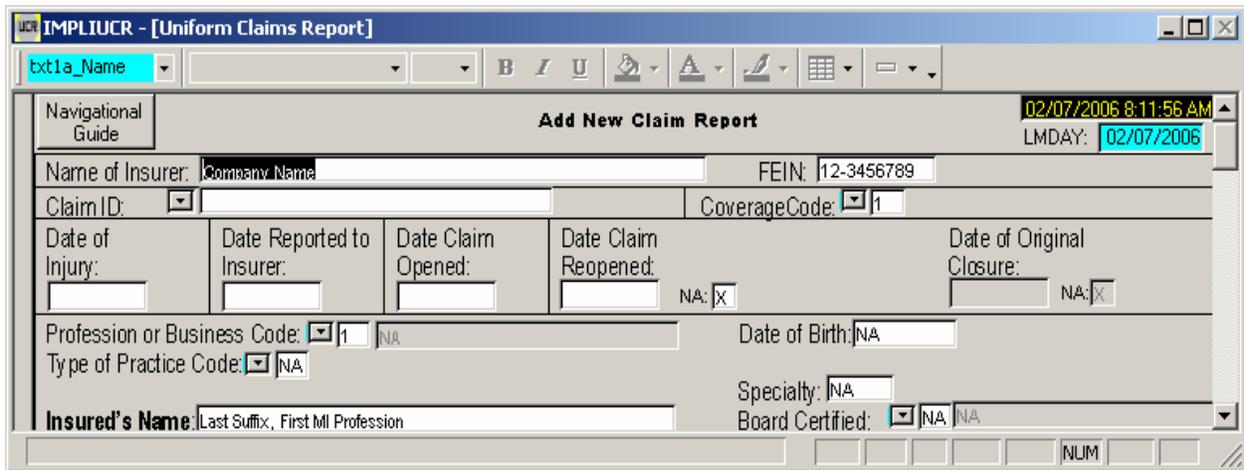
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If there are no errors displayed, the "Create Disk" button will be activated (see Figure-1, page 14). Left mouse clicking on the "Create Disk" button will pop-up a save file browser (see Figure-2, page 14).



(Figure-2)



(Figure-1)

From this Maintenance Process you must correct all highlighted claim report fields to effect a change to the list of errors on previous displayed error list. Or you can gain access to a table view of the data to correct indicated errors. However, errors will not be highlighted in this table view.

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Insurer Name	Insurer FEIN	Claim Number	Coverage Cod	InjuryDate	ReportedDate	ClaimOpened	Reopen
Name of Test C	0	TS0001	1	07/31/1998	05/14/2001	05/14/2001	01/01/200
Name of Test C	0	TS0004	1	07/14/1997	08/22/1997	08/22/1997	01/01/100
Name of Test C	0	TS0007	1	09/20/1996	08/25/1997	08/25/1997	01/01/100
Name of Test C	0	TS0009	1	08/03/1995	08/26/1997	08/26/1997	01/01/200

(Figure-2)

Today's Date/Time: 10/28/2005 10:58:49 AM

Select Quarterly Report Period
Year: 2005 **Read Me!**

Selected Quarterly Report Period: 4th Quarter 2005

Enter entire path and file name with extension of the claims data report file, or "Browse" for the file.

Process Report Data Create Diskette

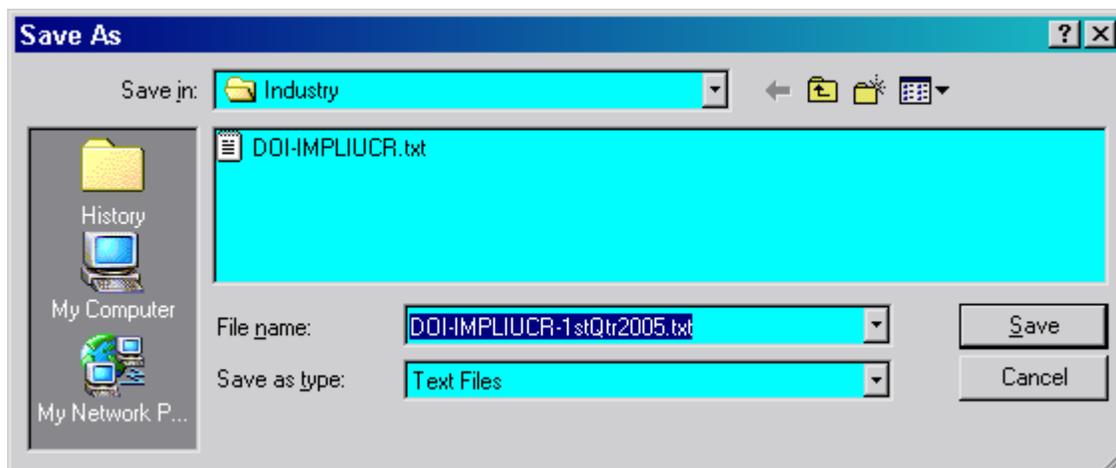
Total Report Records Imported into Uniform Claim Reports Temp Table: []

(Figure-1)

Left mouse click on the "Create Diskette" button to save validated claim report(s) to a text file, Quarterly Reporting Period, for submission to the IDFPR-Division of Insurance.

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(Figure-2)

From this browser "Save As" window, you will be able to save a selected claim report file for submission to the IDFPR Division of Insurance.

Diskette Labeling and Mailing Instructions

Disk Instructions

Disks must be clearly identified by external labels containing all of the following information:

Insurer Name

Insurer FEIN Number

Disk File Name

Filing Date

Disk Contact Person and Telephone number

Example:

ABC Insurance Company of America

2005 1st Qtr Open/Closed Report Data

Date: 3/31/2005

Joe Smith (800) 555-1234

Mailing Requirements

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The disk(s) should be enclosed in rigid protective packaging that will prevent bending and other destructive exposures that might be experienced in normal mail handling.

The outer package should be clearly labeled to indicate computer diskettes are enclosed.

Address submission to: Illinois Department of Financial and Professional Regulation
Division of Insurance
IMPLIUCR data
320 West Washington, 4th Floor
Springfield IL 62767
Attn.: Casualty Actuarial Section

(Source: Added at 30 Ill. Reg. 19288, effective December 4, 2006)

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Professional Liability Insurance Reporting Requirements and Resource Center
- 2) Code Citation: 50 Ill. Adm. Code 933
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
933.10	New Section
933.20	New Section
933.30	New Section
933.40	New Section
933.50	New Section
- 4) Statutory Authority: Implementing Section 155.18a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/155.18a and 401].
- 5) Effective Date of Rulemaking: November 30, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: February 10, 2006; 30 Ill. Reg. 1716
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: No substantive changes were made.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This new rule establishes content, form and data reporting requirements for information to be reported to the Secretary of the Department, or to the Director of the Illinois Department of Financial and Professional Regulation –

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NOTICE OF ADOPTED RULES

Division of Insurance pursuant to Section 155.18a of the Illinois Insurance Code [215 ILCS 5/155.18a]. This new rule will implement PA 94-0677.

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

Kelly Kruger, Assistant Deputy Director
Producer Division
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

217/785-2263

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

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NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 933

PROFESSIONAL LIABILITY INSURANCE REPORTING
REQUIREMENTS AND RESOURCE CENTER

Section

933.10	Applicability
933.20	Purpose and Scope
933.30	Definitions
933.40	Company Reporting Requirements
933.50	Producer Reporting Requirements

AUTHORITY: Implementing Section 155.18a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/155.18a and 401].

SOURCE: Adopted at 30 Ill. Reg. 19355, effective November 30, 2006.

Section 933.10 Applicability

This Part shall apply to each licensed insurance producer and to each insurance company licensed to write medical liability insurance in this State pursuant to Section 4, Class 2(c) [215 ILCS 5/4].

Section 933.20 Purpose and Scope

The purpose of this Part is to establish content, form and data reporting requirements for information to be reported to the Secretary of the Department or to the Director of the Illinois Department of Financial and Professional Regulation-Division of Insurance pursuant to Section 155.18a of the Illinois Insurance Code [215 ILCS 5/155.18a].

Section 933.30 Definitions

Base Rates means the average rate that is charged for the base class and base territory, as well as the relativity factors applied to the base rate and the formula for applying the factors, to determine the rates for all classes and territories as filed with the Division.

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Code means the Illinois Insurance Code [215 ILCS 5].

Department means the Illinois Department of Financial and Professional Regulation.

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

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

Insurance Company means any insurance company licensed in the State of Illinois that provides medical liability insurance.

Insurance Producer means any person required to be licensed under the laws of this State to sell, solicit or negotiate medical liability insurance.

Professional Liability Insurance Resource Center means an internet website (www.idfpr.com/DOI/Apps/MedMal/MedMalList.asp) of licensed insurance companies and producers that provide medical liability insurance.

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

Section 933.40 Company Reporting Requirements

In order to be listed on the Division's Professional Liability Insurance Resource Center website, an insurance company providing medical liability insurance shall, on or before September 30 of each year, submit the following information to the Division electronically and in a format provided on the Division website (www.idfpr.com/DOI/Apps/MedMal/MedMalList.asp):

- a) Name;
- b) Telephone number;
- c) Base rates; and
- d) Hyperlinks to company website.

Section 933.50 Producer Reporting Requirements

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- a) In order to be listed on the Division's website, each insurance producer selling medical liability insurance shall, on or before September 30 of each year, submit the following information to the Division electronically and in a format provided on the Division website (www.idfpr.com/DOI/Apps/MedMal/MedMalList.asp):
- 1) Name;
 - 2) Business address;
 - 3) License number;
 - 4) Telephone number; and
 - 5) Name of each licensed company for which the producer is permitted or authorized to sell medical liability insurance. Misrepresentation of any information reported may be a violation of Section 500-70 of the Code [215 ILCS 5/500-70] and could result in disciplinary action.
- b) The license number will be used to verify an insurance producer's licensure on an inter-agency basis and will not be posted on the Division website.

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Accident and Health Reserves
- 2) Code Citation: 50 Ill. Adm. Code 2004
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
2004.5	Amendment
2004.10	Amendment
2004.20	Amendment
- 4) Statutory Authority: Implementing Section 353(a) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/353(a) and 401].
- 5) Effective Date of Rulemaking: November 29, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. Please see Section 2004.10 of this Part.
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 23, 2006; 30 Ill. Reg. 10993
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: No substantive changes were made.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: For all accident and health insurance policies written on or after the effective date of this amendment, the reserve standards incorporated in Section 2004.10 of this Part will be the National Association of Insurance

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Commissioners 2006 *Accounting Practices and Procedures Manual* (APPM). Previously, Section 2004.10 had referenced the March 2001 APPM standards.

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

Gerald Lucht
Life Actuarial Section
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington Street
Springfield Illinois 62767-0001

217/785-0260

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE

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

SUBCHAPTER Z: ACCIDENT AND HEALTH INSURANCE

PART 2004

ACCIDENT AND HEALTH RESERVES

Section

2004.5	Authority
2004.10	Application and Effective Date
2004.20	Active Life Reserves – Individual Policies
2004.30	Active Life Reserves – Group Policies
2004.40	Claim Reserves – Present Value of Amounts Not Yet Due on Claims
2004.50	Policies Issued Prior to Operative Date of Section 353(a)

AUTHORITY: Implementing Section 353(a) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/353(a) and 401].

SOURCE: Filed December 14, 1965, effective December 28, 1965; codified at 7 Ill. Reg. 4219; amended at 26 Ill. Reg. 3074, effective February 19, 2002; amended at 30 Ill. Reg. 19360, effective November 29, 2006.

Section 2004.5 Authority

~~This~~The following Part is promulgated and adopted pursuant to and in accordance with the provisions of Section 401 of the Illinois Insurance Code in order to implement Section 353(a) of the Code~~thereof~~.

(Source: Amended at 30 Ill. Reg. 19360, effective November 29, 2006)

Section 2004.10 Application and Effective Date

This Part applies to all companies transacting in this State the kinds of business enumerated in clause (b) of Class 1 and clause (a) of Class 2 of Section 4 of the Illinois Insurance Code [215 ILCS 5/4], and it applies to all accident and health policies for which reserve standards are prescribed under Section 353(a) of the Code. The standards established by this Part will no longer be applicable to policies issued and claims incurred on or after January 1, 2002. After that date, applicable standards are as prescribed by the National Association of Insurance Commissioners (NAIC) (2301 McGee Street, Suite 800, Kansas City, MO 64108-~~2662~~2604)

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(Accounting Practices and Procedures Manual – as of March ~~2006~~2001, no subsequent dates or editions).

(Source: Amended at 30 Ill. Reg. 19360, effective November 29, 2006)

Section 2004.20 Active Life Reserves – Individual Policies

a) General Provisions

Active life reserves are required for all in force policies and are in addition to any reserves required in connection with claims. For policy types in ~~subsection~~ subsection (b)(1)-(3) of this Section, the minimum reserve shall be determined as specified ~~in this Part~~herein. It should be emphasized, however, that these are minimum standards and higher, adequate reserves shall be established by the company in any case ~~in which~~where experience indicates that these minimum standards do not place a sound value on the liabilities under the policy. For policy types in subsection (b)(4) of this Section, the minimum reserve shall be the gross pro rata unearned premium.

b) Types of individual accident and health insurance policies

- 1) Policies ~~that~~which are noncancellable or noncancellable and guaranteed renewable for life or to a specified age, such as 60 or 65.
- 2) Policies ~~that~~which are guaranteed renewable for life or to a specified age, such as 60 or 65, but under which the company reserves the right to change the scale of premiums.
- 3) Policies in which the company has reserved the right to cancel or refuse renewal for one or more reasons, but has agreed implicitly or explicitly that, prior to a specified time or age, it will not cancel or decline renewal solely because of deterioration of health after issue; however, policies shall not be considered of this type if the company has reserved the right to refuse renewal provided the right is to be exercised at the same time for all policies in the same category, unless premiums are based on the level premium principle.
- 4) All other individual policies.
- 5) Notices:

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- A) ~~This subsection (b)~~~~The above~~ does not classify "franchise" as a type of policy. Such policies are frequently written under an agreement limiting the company's right to cancel or refuse renewal. Usually the right is reserved to refuse renewal of all policies in the group or other categories such as those ceasing to be members of the association, and this would place ~~those such~~ policies, in subsection (b)(4) of this Section in accordance with the last clause under subsection (b)(3) of this Section. However, if premiums are based on the level premium principle or if the renewal privilege granted to the individual insured meets the requirements for policies in subsections (b)(1)-(3) of this Section, the franchise policy shall be so classified for reserve purposes.
- B) "Family group accident and health insurance policies", as defined in Section 367(4) of the Illinois Insurance Code [215 ILCS 5/367(4)], should have active life reserves determined under this Section.
- C) A policy may have guarantees qualifying it as a policy listed in subsections (b)(1)-(3) of this Section until a specified age or duration, after which the guarantees, or lack of guarantees, may qualify it as a policy such as listed in subsections (b)(1)-(4) of this Section. In such case, the policy in each period shall be considered for reserve purposes according to the type to which it then belongs.
- D) Where all of the benefits of a policy, as provided by rider or otherwise, are not of the same type as listed in this subsection (b), each benefit shall be considered for reserve purposes according to the type to which it belongs.
- c) Reserve standards for policies in subsections (b)(1)-(3) of this Section.
- 1) Interest. The maximum interest rate for reserves shall be 3½% compounded annually.
 - 2) Mortality:
 - A) 1941 Commissioners Standard Ordinary Table, or

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- B) 1958 Commissioners Standard Ordinary Table, or
 - C) 1941 Standard Industrial Mortality Table, or
 - D) Commissioners 1961 Standard Industrial Mortality Table, or
 - E) Such other table as may be approved by the Director [of the Department of Financial and Professional Regulation-Division of Insurance \(Director\)](#).
- 3) Morbidity or [Other Contingency](#)~~other contingency~~:
- A) Total disability due to accident or sickness. The minimum standard shall be the 1964 Commissioners Disability Table.
 - B) Hospital Expense Benefits. The minimum standard shall be the 1956 Inter-company Hospital Table.
 - C) Surgical Expense Benefits. The minimum standard shall be the 1956 Inter-company Surgical Table.
 - D) Accidental Death Benefits. The minimum standard shall be the 1959 Accidental Death Benefits Table.
 - E) All other benefits. The company shall adopt standards to produce reserves which place a sound value on the liabilities under such benefit.
- 4) Negative Reserves. Negative reserves on any benefit may be offset against positive reserves for other benefits in the same policy, but the mean reserve on any policy shall never be taken as less than one-half the valuation net premium.
- 5) Preliminary Term. The minimum reserve shall be on the basis of a two-year preliminary term.
- 6) Reserve Method. Mean reserves diminished by appropriate credit for valuation net deferred premiums, or, mid-terminal reserves plus gross or net pro rata unearned premium reserves. In no event, however, may the aggregate reserve for all policies be less than the gross pro rata unearned

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premium under ~~those~~ policies.

- 7) Alternative Valuation Procedures and Assumptions. Provided the reserve on all policies to which the method or basis is applied is not less in the aggregate than the amount determined according to the applicable standards specified above, the company may use any reasonable assumptions as to the interest rate, mortality rates, or the rates of morbidity or other contingency, and may introduce an assumption as to the voluntary termination of policies. Also, subject to the preceding condition, the company may employ methods other than the methods stated above in determining a sound value of its liabilities under such policies, including but not limited to the following:
 - A) Optional use of either the level premium, the one-year preliminary term, or the two-year preliminary term method.
 - B) Prospective valuation on the basis of actual gross premiums with reasonable allowance for future expenses.
 - C) The use of approximations such as those involving age groupings, groupings of several years of issue or average amounts of indemnity.
 - D) The computation of the reserve for one policy benefit as a percentage of, or by other relation to, the aggregate policy reserves, exclusive of the benefit or benefits so valued.
 - E) The use of a composite annual claim cost for all or any combination of the benefits included in the policies valued.
- 8) For statement purposes, the net reserve liability may be shown as the excess of the mean reserve over the amount of net unpaid and deferred premiums, or, regardless of the underlying method of calculation, it may be divided between the gross pro rata unearned premium reserve and a balancing item for the "additional reserve".

(Source: Amended at 30 Ill. Reg. 19360, effective November 29, 2006)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Licensing of Public Adjusters
- 2) Code Citation: 50 Ill. Adm. Code 3118
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
3118.10	Amendment
3118.20	Amendment
3118.25	New Section
3118.50	Amendment
3118.60	Amendment
3118.80	Amendment
3118.85	New Section
3118.90	Amendment
3118.120	Amendment
3118.130	Amendment
- 4) Statutory Authority: Implementing Article XXXI³/₄ and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XXXI³/₄ and 401]
- 5) Effective Date of Rulemaking: November 29, 2006
- 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 rulemaking, 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: August, 4, 2006; 30 Ill. Reg. 13044
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: No substantive changes were made.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: The general purpose of this Part is to regulate the activities of public adjusters. The Division has added provisions to Section 3118.60 that will subject an applicant for a public adjuster's license to a criminal background check. The background check of applicants will equip the Director to deny licensure when a felony conviction is identified.

Exercising this authority will provide Illinois residents with greater consumer protection. The Division has also made a number of housekeeping changes to Sections 3118.10; 3118.20; 3118.50, 3118.80, 3118.120 and 3118.130 to accurately reflect the consolidation of the Department of Insurance under IDFP. The Division has also added Section 3118.25, a new definition Section that identifies terms that were not previously described.

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

Kelly Kruger, Assistant Deputy Director
Producer Division
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

217/785-2263

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL
REGULATION~~INSURANCE~~SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE
REPRESENTATIVES AND REGISTERED FIRMS

PART 3118

LICENSING OF PUBLIC ADJUSTERS

Section

3118.10	Authority
3118.20	Purpose and Scope
<u>3118.25</u>	<u>Definitions</u>
3118.30	Engaged in the Business of Adjusting Insurance Claims (Repealed)
3118.40	Valuable Consideration (Repealed)
3118.50	Records Material
3118.60	Grandfather License Provisions
3118.70	Nonresident Public Adjusters (Repealed)
3118.80	Filing of Contract Forms
<u>3118.85</u>	<u>Client Disclosure</u>
3118.90	Filing for Rate Schedule of Charges for Services
3118.100	Maintenance of Records (Repealed)
3118.110	Performance Standards Applicable to All Public Adjusters (Repealed)
3118.120	Hearings
3118.130	Severability

AUTHORITY: Implementing Article XXXI³/₄ and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XXXI³/₄ and 401].

SOURCE: Adopted and codified at 6 Ill. Reg. 14622, effective November 16, 1982; amended at 14 Ill. Reg. 17978, effective October 18, 1990; amended at 30 Ill. Reg. 19367, effective November 29, 2006.

Section 3118.10 Authority

This Part is promulgated by the Director of the Division of Insurance under Section 401 of the Illinois Insurance Code ~~that (the Act) (Ill. Rev. Stat. 1989, ch. 73, par. 1013) which~~ empowers the Director *"to make reasonable rules and regulations as may be necessary for making effective"* the insurance laws of this State. This Part is promulgated pursuant to Article ~~XXXI³/₄~~XXX³/₄ entitled Public Insurance Adjuster and Registered Firm~~commonly referred to as the Public~~

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~~Adjuster Regulatory Act, Section 512.51 et seq. of the Illinois Insurance Code, (Ill. Rev. Stat. 1989, ch. 73, par. 1065.59-51 et seq.).~~

(Source: Amended at 30 Ill. Reg. 19367, effective November 29, 2006)

Section 3118.20 Purpose and Scope

The purpose of this ~~PartRule~~ is to regulate the activities of public adjusters. This ~~PartRule~~ applies to all public adjusters licensed in accordance with ~~the Article XXXI³/₄ of the Code "Public Adjuster Regulatory Act"~~, hereinafter referred to as the Act.

(Source: Amended at 30 Ill. Reg. 19367, effective November 29, 2006)

Section 3118.25 Definitions

Adjusting Insurance Claims means representing an insured with an insurer for compensation, and while representing that insured, either negotiating values, damages, or depreciation or applying the loss circumstances to insurance policy provisions.

Code means the Illinois Insurance Code [215 ILCS 5].

Department means the Illinois Department of Financial and Professional Regulation.

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

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

Person embraces both natural persons and business entities of whatever type.

Public Insurance Adjuster means a person engaged in the business of adjusting insurance claims.

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

(Source: Added at 30 Ill. Reg. 19367, effective November 29, 2006)

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Section 3118.50 Records Material

As used in [Article XXXI³/₄ of the Code](#)~~the Act~~, records material means all books, papers and documentary materials regardless of physical form or characteristics made, produced, executed or received by any public adjuster pursuant to a law or in connection with the transaction of its business and preserved or appropriate for preservation by such adjuster or its successors as evidence of the organization, function, policies, decisions, procedures, obligations and business of the adjuster or because of the informational data contained therein.

(Source: Amended at 30 Ill. Reg. 19367, effective November 29, 2006)

Section 3118.60 Grandfather License Provisions

- a) For the purpose of implementing [Article XXXI³/₄ of the Code](#)~~the Act~~, any persons engaged in ~~the~~ business as a public adjuster ~~before December 16, 1983~~~~prior to the effective date of the Act~~ will be issued a license pursuant to Section [512.54\(c\) of the Code](#)~~4(e) of the Act~~. Being engaged in the business as a public adjuster shall mean any person who has adjusted or has participated in the adjustment of a minimum of ~~twelve~~ (12) insurance claims for insureds in the State of Illinois between the period from September 3, 1981 through June 30, 1982.
- b) Any persons whose application to qualify under the grandfather provision is received ~~after~~~~subsequent to~~ January 1, 1983, shall be subject to a written examination and interrogatories as provided in Section [512.54\(c\) of the Code](#)~~4(e) of the Act~~.
- c) Any person who has successfully passed the examination referred to in subsection (b), before being issued a license in Illinois, and prior to any renewal of that license, will be subjected to a criminal background check to determine whether the applicant is competent, trustworthy and of good business reputation. In the event that the criminal background reveals that an applicant has been convicted of a felony of any type, or has engaged in any of the acts enumerated in Section 512.61 of the Code [215 ILCS 5/512.61(a)], the Director may deny the application for a license, or initiate proceedings to suspend or revoke a renewal license in accordance with Sections 402, 403 and 512.61 of the Code [215 ILCS 5/402, 403 and 512.61] and 50 Ill. Adm. Code 2402.

(Source: Amended at 30 Ill. Reg. 19367, effective November 29, 2006)

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Section 3118.80 Filing of Contract Forms

- a) Each public adjuster shall file with and secure the approval of the Director of ~~Insurance~~ of each form of contract before it is used in the State of Illinois.
- b) Each contract form filing submitted for approval must be accompanied by a forms submission letter, in duplicate, ~~that~~which must include:
 - 1) the name of the public adjuster making the filing.
 - 2) the title, form number, and edition identification of the ~~forms~~form(s).
 - 3) notification as to whether the filing is new or supersedes a present filing. Identification of all changes in all superseding filings, as well as identification of all superseded forms, is required.
 - 4) the effective date of use.
- c) Each control form filing submitted for approval must:
 - 1) be submitted in duplicate.
 - 2) have printed at the head of the contract form the name of the public adjuster, and the location and telephone number of the public adjuster's principal place of business. Unless located in a rural area ~~that~~which does not use a street address, Post Office Box (P.O. Box) addresses are not permitted unless the street address is also included.
 - 3) be identified by a descriptive title, form number and edition identification number. The form number must appear in the lower left-hand corner of the contract form to be approved.
 - 4) in addition to the requirements of the Fire Damage Representation Agreement Act~~AN ACT relating to certain agreements in connection with fire insurance claims [815 ILCS 625], (Ill. Rev. Stat. 1989, ch. 29, par. 81)~~ each contract form must include the following:

"Pursuant to Article XXXI³/₄ of the Code, the Public Adjustor Regulatory Act, Section 512.51 et seq. of the Illinois Insurance Code, (Ill. Rev. Stat. 1989, ch. 73, par. 1065.59-58 et seq.) a contract which is executed within

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5 days after the conclusion of the loss-producing occurrence shall be voidable at the option of the insured for 10 days after execution of the contract. The written contract shall constitute the entire agreement between the public adjuster and the insured."

- 5) have highlighted all changes from currently filed forms. Any changes not highlighted will not be deemed filed.
 - 6) be made out in "John Doe" fashion, exactly as it is to be presented to an insured, except for any variable material.
 - 7) be submitted in final printed form. Typed or printer's proof copies may be submitted for review, but must be refiled in final printed form.
 - 8) be printed in not less than ten-point type.
- d) Where contract forms submitted by a partnership, association or corporation will be used by other public adjusters engaged or employed by ~~thesueh~~ partnership, association or corporation, the forms submission letter must, in addition to meeting the other requirements of this Section, include the following information concerning the public ~~adjustersadjuster(s)~~ who will use ~~thesueh~~ forms:
- 1) name;
 - 2) license identification number.
- e) Contract forms shall not include:
- 1) hold harmless agreements that provide indemnification to the public adjuster by the insured resulting from the public adjuster's negligence.
 - 2) power-of-attorney by which the public adjuster can act in the place and instead of the insured as ~~his~~-attorney-in fact.

(Source: Amended at 30 Ill. Reg. 19367, effective November 29, 2006)

Section 3118.85 Client Disclosure

If the client of the public adjuster chooses either a ~~board up~~ company, contractor or any other vendor in which the public adjuster, or its employees, agents or assigns, has or receives any

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ownership, beneficial or equitable interest in that ownership, then the nature of that ownership or interest must be disclosed to the public adjuster's client in writing prior to execution of any contract between the public adjuster's client and any entity in which the public adjuster has ownership or beneficial or equitable interest. The disclosure must contain, at a minimum, the following wording in 14 point font, upper case, red lettering:

"In addition to the amount you will pay your public adjuster for loss settlement, [public adjuster name] will receive an additional payment from [contractor or vendor name] because of your agreement to work with that company. [Public adjuster name] has an arrangement with [contractor or vendor name] whereby [contractor vendor name] agrees to pay [public adjuster name] if you agree to have [contractor or vendor] complete work for you. You are not required to use any person recommended to you by the public adjuster and may choose any contractor or vendor you so choose."

(Source: Added at 30 Ill. Reg. 19367, effective November 29, 2006)

Section 3118.90 Filing for Rate Schedule of Charges for Services

All public adjusters shall file with the Director prior to July 1, 1982 a Rate Schedule of Charges for Services. Any changes subsequent to July 1, 1982 shall also be filed with the Director prior to their use.

- a) All filing required under the above must be accompanied by duplicate copies of a rate submission letter ~~that~~which includes:
 - 1) the name of the public adjuster making the filing.
 - 2) notification of whether the filing is new or supersedes a present filing.
 - 3) the effective date of use.
- b) Rate Schedule of Charges for Services submitted by partnerships, associations or corporations ~~that~~which will be used by other public adjusters engaged or employed by ~~those~~such partnerships, associations or corporations must, in addition to meeting the other requirements of this Section, be accompanied by a list of ~~these~~such public adjusters, including ~~their~~ 1) name and; 2) license identification number.
- c) A public adjuster client shall not be required by the licensed public adjuster, or its agent, to pay higher fees to the public adjuster if the client does not elect to work

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with the contractor or vendor preferred or primarily recommended by the public adjuster. A licensed public adjuster, or its agent, shall present to the public adjuster client not fewer than two good faith, competitive bids for any contractor, vendor or service provider recommended to the client by the public adjuster.

(Source: Amended at 30 Ill. Reg. 19367, effective November 29, 2006)

Section 3118.120 Hearings

Any hearing granted under this [PartRule](#) shall be in accordance with [Departmental Rule-50](#) Ill. Adm. Code 2402 entitled Administrative Hearing Procedures.

(Source: Amended at 30 Ill. Reg. 19367, effective November 29, 2006)

Section 3118.130 Severability

If any provision of this [PartRule](#) shall be held invalid, the remainder of the [PartRule](#) shall not be affected ~~thereby~~.

(Source: Amended at 30 Ill. Reg. 19367, effective November 29, 2006)

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- 1) Heading of the Part: Public Use of State Parks and Other Properties of the Department of Natural Resources
- 2) Code Citation: 17 Ill. Adm. Code 110
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
110.30	Amendment
110.60	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 8 of the State Forest Act [525 ILCS 40/8] and by Sections 1, 2, 4 and 6 of the State Parks Act [20 ILCS 835/1, 2, 4 and 6] and by Section 5 of the State Parks Designation Act [20 ILCS 840/5] and by Sections 805-10, 805-520, 805-525, 805-330, 805-335 and 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-10, 805-520, 805-525, 805-330, 805-335 and 805-515]
- 5) Effective Date of Amendments: November 30, 2006
- 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 rulemaking, including any material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 25, 2006; 30 Ill. Reg. 14087
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes. The emergency rulemaking was adopted on July 27, 2006 at 30 Ill. Reg. 13536.
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: This Part was amended to add language stating that dogs on a maximum 50 foot leash being used to track wounded deer are allowed at sites in accordance with 520 ILCS 5/2.26 and 17 Ill. Adm. Code 510 and to add language to prevent further infestation of the emerald ash borer in Illinois by restricting the public from bringing firewood into State parks for personal use, sale, or distribution from geographical areas where wood exportation has been prohibited by either State or federal quarantine.
- 16) Information and questions regarding these adopted amendments shall be directed to:

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

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER a: LANDSPART 110
PUBLIC USE OF STATE PARKS AND OTHER PROPERTIES OF THE
DEPARTMENT OF NATURAL RESOURCES

Section

- 110.4 Fees and Charges
- 110.5 Unlawful Activities (Repealed)
- 110.20 Alcoholic Beverages – Possession, Consumption, Influence
- 110.30 Animals – Pets, Dogs, Cats, Equine; Noisy, Vicious, Dangerous Animals;
Livestock; Animal Waste
- 110.40 Boats and Other Watercraft
- 110.45 Abandoned Watercraft
- 110.50 Capacity of Areas – Usage Limitation
- 110.60 Camping – Campfires – [Firewood](#)
- 110.70 Destruction of Property – Flora – Fauna – Man-Made and Inanimate Natural
Objects-Collection of Artifacts
- 110.90 Group Activity
- 110.95 Demonstrations
- 110.100 Littering
- 110.110 Prohibited Fishing Areas – Cleaning of Fish
- 110.120 Restricted Areas
- 110.140 Soliciting/Advertising/Renting/Selling
- 110.150 Swimming/Wading/Diving
- 110.160 Vehicles – Operation on Roadway – Speed – Parking – Weight Limit
- 110.165 Bicycles – Operation on Roadway – Designated Trails
- 110.170 Weapons and Firearms – Display and Use
- 110.175 Nudity Prohibited
- 110.180 Violation of Rule
- 110.185 Emergency Modification of Site Rules

AUTHORITY: Implementing and authorized by Section 8 of the State Forest Act [525 ILCS 40/8] and by Sections 1, 2, 4 and 6 of the State Parks Act [20 ILCS 835/1, 2, 4 and 6] and by Section 5 of the State Parks Designation Act [20 ILCS 840/5] and by Sections 805-10, 805-520, 805-525, 805-330, 805-335 and 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-10, 805-520, 805-525, 805-330, 805-335 and 805-515].

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SOURCE: Adopted at 4 Ill. Reg. 11, p. 59, effective March 4, 1980; emergency amendment at 5 Ill. Reg. 8933, effective August 25, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10621; amended at 6 Ill. Reg. 7401, effective June 11, 1982; amended at 8 Ill. Reg. 9967, effective June 19, 1984; amended at 10 Ill. Reg. 9797, effective May 21, 1986; amended at 10 Ill. Reg. 13256, effective July 25, 1986; amended at 13 Ill. Reg. 3785, effective March 13, 1989; amended at 15 Ill. Reg. 14423, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 7934, effective May 11, 1992, for a maximum of 150 days; emergency expired October 8, 1992; amended at 16 Ill. Reg. 15435, effective September 28, 1992; amended at 19 Ill. Reg. 6471, effective April 28, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 22 Ill. Reg. 14832, effective August 3, 1998; amended at 24 Ill. Reg. 12556, effective August 7, 2000; emergency amendment at 25 Ill. Reg. 13786, effective October 12, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1206, effective January 16, 2002; amended at 26 Ill. Reg. 6534, effective May 1, 2002; amended at 27 Ill. Reg. 8866, effective May 19, 2003; amended at 28 Ill. Reg. 7061, effective May 3, 2004; amended at 29 Ill. Reg. 2268, effective January 28, 2005; emergency amendment at 30 Ill. Reg. 13536, effective July 27, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 19376, effective November 30, 2006.

Section 110.30 Animals – Pets, Dogs, Cats, Equine; Noisy, Vicious, Dangerous Animals; Livestock; Animal Waste

It shall be unlawful:

- a) For any person to allow an unleashed dog, cat or other domesticated animal on any area and further for any person to allow any dog, cat or other domesticated animal in any area, on a leash longer than 10 feet, except that:
 - 1) unleashed hunting dogs are allowed during the hunting season for all wildlife species except deer and wild turkey on any Department areas open to hunting and so posted;
 - 2) at field trials unleashed dogs are allowed at sites designated by the Department in accordance with 17 Ill. Adm. Code 910;
 - 3) unleashed hunting dogs are allowed by individual permit for dog training at sites designated by the Department in accordance with 17 Ill. Adm. Code 950;

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- 4) search and rescue dog training is allowed by activity permit. The permit will designate specific areas and times so as not to conflict with other site activities; and-
- 5) dogs on a maximum 50 foot leash being used to track wounded deer are allowed at sites in accordance with 520 ILCS 5/2.26 and 17 Ill. Adm. Code 510 – General Hunting and Trapping on Department-Owned or -Managed Sites.
- b) For any leashed or tied animal to be left unattended and not under the specific physical control of the owner or person designated by the owner.
- c) For any person to bring any domesticated animal onto Department lands without the animal being current on any required federal, State or local vaccinations or health certifications. Proof of required vaccinations or health certifications must be provided to any Department employee upon demand.
- d) For any person to keep a noisy, or vicious, or dangerous dog or animal, or one which is disturbing to other persons, on Department of Natural Resources controlled properties, and to remain therein after being asked by the Site Superintendent or assigned employee to leave.
- e) For any person to ride or lead any equine in any area, other than a designated equestrian trail or area, except horse drawn conveyances authorized by permit by the Department of Natural Resources. The decision to grant or deny a permit will be based upon the impact upon the site and the public. Horse patrols of the Department in the performance of their duties are not excluded from any area under the control of the Department. Hikers on equestrian trails must yield to equines.
- f) For any person to allow livestock to roam or graze on any Department-controlled lands except when authorized by proper lease, license or written agreement approved by the Illinois Department of Natural Resources in accordance with 17 Ill. Adm. Code 150.
- g) For any person responsible for an animal in a campground or day use area not to dispose of his animal's waste excrement directly into a Department garbage container with a tight fitting lid or have the excrement put into a closed water tight bag or water tight container with the lid closed and placed into an open Department trash container. At equestrian campgrounds, equestrians must deposit

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their animal's waste in a designated manure collection area.

- h) For any person to allow a dog, cat, or other domesticated animal on any area designated as "NO PETS". Such designation will be reserved for beach areas, concession areas, and certain areas within campgrounds and picnic areas where there are concentrations of large numbers of people or the presence of food or children.
- i) For any person to erect or use temporary corrals, except when there are insufficient hitching posts or tie line areas, there is a large enough open area that can be utilized for a corral without causing damage to State property, and permission has been obtained from the Site Superintendent for use of rope or gates. Electrified fences or wires are prohibited.
- j) To tether equines or canines to trees. Tie lines between trees are permissible if sites do not provide hitching posts, tie line posts or tethering structures within campgrounds, day use areas or rest areas. Tie lines, if used, must not allow animals to reach or otherwise do damage to either tree.

(Source: Amended at 30 Ill. Reg. 19376, effective November 30, 2006)

| **Section 110.60 Camping – Campfires – Firewood**

It shall be unlawful:

- a) For any person to use a tent or trailer, or any other type of camping device except in designated camping areas, and persons camping in such designated areas shall obtain a camping authorization slip from authorized site personnel as provided by 17 Ill. Adm. Code 130.
- b) For any person to build any fire in any area except in campstoves provided by the Department of Natural Resources or in charcoal or other types of metal grills which are furnished by the visitor at a specific campfire site designated or where bans on open fires are posted by the Department of Natural Resources.
- c) For any person to possess or discharge any type of fireworks or other explosive devices including but not limited to model rockets or aerial displays without a written permit issued by the Department. The decision to grant or deny a permit will be based upon public safety and legal considerations, and the impact on public use/enjoyment of parks.

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- d) For any person to bring or possess on Department of Natural Resources properties firewood from any geographical area where wood exportation has been prohibited by either State or federal quarantine, or to sell or distribute firewood on Department properties without prior written agreement with the Department pursuant to 17 Ill. Adm. Code 150 – Regulations for the Letting of Concessions, Farm Leases, Sale of Buildings and Facilities, and Demolitions. Department staff may confiscate any firewood brought onto Department properties found to be in violation of this Part.

(Source: Amended at 30 Ill. Reg. 19376, effective November 30, 2006)

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- 1) Heading of the Part: Early Childhood Block Grant
- 2) Code Citation: 23 Ill. Adm. Code 235
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
235.10	Amendment
235.60	Amendment
235.70	Amendment
235.100	New Section
235.110	New Section
235.120	New Section
235.130	New Section
235.140	New Section
235.200	New Section
235.210	New Section
235.220	New Section
- 4) Statutory Authority: 105 ILCS 5/1C-2, 2-3.71, 2-3.71a, and 2-3.89
- 5) Effective Date of Amendments: November 28, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 11, 2006; 30 Ill. Reg. 13298
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The numbering for Subpart B was changed as follows:
 - Section 235.200 became 235.110,
 - Section 235.300 became 235.120,
 - Section 235.400 became 235.130, and
 - Section 235.500 became 235.140.

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In Section 235.70(b)(1), a clarification was made to emphasize that evaluation data must address social-emotional consultative services.

In Section 235.120(c), "geographic" distribution was changed to "statewide basis".

In Section 235.140(a), a provision was removed that students enrolled or pre-enrolled in Head Start programs could not be counted as potential students for the Preschool for All Children program.

Cross-references in Sections 235.120(a) and 235.130(a)(1) were changed to 235.110(a) and 235.110, respectively.

New Subpart C was added to set forth the requirements for currently funded Preschool for All Children programs (Subpart B) or Prekindergarten Programs for Children at Risk of Academic Failure (Subpart A) to apply for grants to provide social and emotional consultation services for teachers.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace emergency rules currently in effect? No. A companion emergency rulemaking became effective June 26, 2006 and expired on November 22, 2006.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: Public Act 94-1054, effective July 25, 2006, establishes the Preschool for All Children program and sets forth the prioritization requirements for funding for two years (i.e., school years 2006-07 and 2007-08). The goal of the Preschool for All Children program is to provide educational services to all 3- to 5-year-old children whose families choose to participate. The funding for the Preschool for All Children Program is part of the Early Childhood Block Grant program.

The new law amends Section 2-3.71 of the School Code to encourage participation in the Preschool for All Children program of any family who wishes to enroll its child and to provide authorization to the State Board of Education to make decisions about which programs are to be funded in accordance with the following criteria.

- First priority in awarding grants must be given to applicants that propose to serve primarily children who have been identified as being at risk of academic failure. At-risk children are those who, because of their home and community environment, are

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- subject to such language, cultural, economic and like disadvantages that they have been determined, as a result of screening procedures, to be at risk of academic failure.
- Second priority in awarding grants must be given to applicants proposing to serve primarily children whose family's income is less than four times the poverty guidelines updated periodically in the *Federal Register* by the U.S. Department of Health and Human Services (HHS) under the authority of 42 U.S.C. 9902(2). These limits reflect annual incomes that range from a low of \$52,800 for a family of two to a high of \$134,400 for a family of eight (with an additional \$13,600 for each family member exceeding eight).

Since the law does not define the term "primarily" nor set forth other criteria for the agency's making funding determinations, new Subpart B is proposed to address the Preschool for All Children program. This subpart relies to the greatest extent possible on existing requirements as set forth in Subpart A, which establishes requirements for the prekindergarten at-risk program and also serves children ages 3 to 5 years. As per the law, programs funded under Section 2-3.71 of the School Code must meet requirements for the Preschool for All Children program during the period of July 1, 2006, through June 30, 2008; therefore, no funding will be provided during this time for new prekindergarten at-risk programs.

Finally, in response to public comment, new Subpart C sets forth the requirements for existing programs to request funds for consultation services to assist teachers in dealing with the social and emotional development of their students.

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

Kay Henderson
Early Childhood Division
Illinois State Board of Education
100 North First Street, E-225
Springfield, Illinois 62777-0001

217/524-4835

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 235

EARLY CHILDHOOD BLOCK GRANT

SUBPART A: PRESCHOOL EDUCATION AND
PREVENTION INITIATIVE PROGRAMS

Section

235.10	Purpose; Eligible Applicants
235.20	Application Procedure and Content for New or Expanding Programs
235.30	Additional Program Components for Preschool Education Proposals
235.40	Additional Program Components for Prevention Initiative Proposals
235.50	Proposal Review and Approval for New or Expanding Programs
235.60	Application Content and Approval for Continuation Programs
235.70	Terms of the Grant

SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAMSection

<u>235.100</u>	<u>Purpose; Eligible Applicants</u>
<u>235.110</u>	<u>Application Procedure and Content for New or Expanding Programs</u>
<u>235.120</u>	<u>Proposal Review and Approval for New or Expanding Programs</u>
<u>235.130</u>	<u>Application Content and Approval for Continuation Programs</u>
<u>235.140</u>	<u>Terms of the Grant</u>

SUBPART C: SOCIAL AND EMOTIONAL CONSULTATION SERVICESSection

<u>235.200</u>	<u>Implementation and Purpose; Eligible Applicants</u>
<u>235.210</u>	<u>Application Procedure and Content</u>
<u>235.220</u>	<u>Proposal Review and Approval of Proposals</u>

235.APPENDIX A	Illinois Early Learning Standards
235.APPENDIX B	Illinois Birth to Three Program Standards

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AUTHORITY: Authorized by Section 1C-2 of the School Code [105 ILCS 5/1C-2] and implementing Sections 2-3.71, 2-3.71a and 2-3.89 of the School Code [105 ILCS 5/2-3.71, 2-3.71a and 2-3.89].

SOURCE: Adopted at 16 Ill. Reg. 10181, effective June 10, 1992; expedited correction at 16 Ill. Reg. 15186, effective June 10, 1992; amended at 26 Ill. Reg. 903, effective January 15, 2002; old Part repealed at 30 Ill. Reg. 4618 and new Part adopted at 30 Ill. Reg. 4620, effective February 28, 2006; emergency amendment at 30 Ill. Reg. 11793, effective June 26, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 19383, effective November 28, 2006.

SUBPART A: PRESCHOOL EDUCATION AND
PREVENTION INITIATIVE PROGRAMS

Section 235.10 Purpose; Eligible Applicants

- a) This ~~Subpart A~~ Part establishes the procedures and criteria for the approval of proposals submitted to the State Board of Education by eligible applicants for grants to assist in establishing early childhood education programs funded through the Early Childhood Block Grant authorized by Section 1C-2 of the School Code [105 ILCS 5/1C-2]. The Early Childhood Block Grant program shall include:
- 1) preschool education for at-risk children ages 3 years old to kindergarten enrollment age as defined in Section 10-20.12 of the School Code [105 ILCS 5/10-20.12], to include those programs and activities that meet the requirements of Section 2-3.71(a) of the School Code [105 ILCS 5/2-3.71(a)] and parental training activities as authorized under Section 2-3.71a of the School Code [105 ILCS 5/2-3.71a]; and
 - 2) prevention initiative for at-risk children from birth to age 3 and their families, to include those programs and activities that meet the requirements of Section 2-3.89 of the School Code [105 ILCS 5/2-3.89] and parental training activities as authorized under Section 2-3.71a of the School Code.
 - 3) For the purposes of this Part, "at risk" is defined as those children *who because of their home and community environment are subject to such language, cultural, economic and like disadvantages that they have been determined, as a result of screening procedures (to be carried out in conformance with Section 235.20(c)(5)) to be at risk of academic failure.* (Section 2-3.71(a)(4) of the School Code)

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- b) Eligible applicants for Early Childhood Block Grant programs include any public or private not-for-profit or for-profit entity with experience in providing educational, health, social and/or child development services to young children and their families. If the Early Childhood Block Grant program is operated in or by a child care center subject to the licensure requirements of the Illinois Department of Children and Family Services (DCFS), then that child care center must hold the appropriate licensure in accordance with rules promulgated by DCFS (see 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes), 405 (Licensing Standards for Day Care Agencies), 406 (Licensing Standards for Day Care Homes), 407 (Licensing Standards for Day Care Centers) and 408 (Licensing Standards for Group Day Care Homes)).
- c) Joint applications for funds may be submitted by any combination of eligible applicants, as described in subsection (b) of this Section.
 - 1) If a joint application is submitted, then an administrative agent shall be designated.
 - 2) A school district or other eligible applicant shall only participate in one proposal for a specific program.
- d) Eligible applicants may subcontract with a private school, not-for-profit or for-profit corporation, or other governmental agency that would otherwise be eligible under subsection (b) of this Section to conduct an Early Childhood Block Grant program.
- e) Parental training programs funded under Section 2-3.71a of the School Code prior to July 1, 2006, are not subject to the requirements of this Part, but may be awarded continuation funding in accordance with the requirements of Section 235.60 of this Part.

(Source: Amended at 30 Ill. Reg. 19383, effective November 28, 2006)

Section 235.60 Application Content and Approval for Continuation Programs

The requirements of the Section shall apply to those applicants seeking funding to continue preschool education and prevention initiative programs beyond the initial grant period and for programs offering parental training services under Section 2-3.71a of the School Code that were first funded previous to school year 2006-07.

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- a) In order to continue to operate an Early Childhood Block Grant Program, a grantee each year shall electronically submit an application for continuation. The application shall include at least the following:
- 1) an overview of the program, addressing:
 - A) the program components outlined in Section 235.20 of this Part and either Section 235.30 or Section 235.40 of this Part, as applicable for preschool education or prevention initiative programs; or
 - B) the requirements of Section 2-3.71a of the School Code for parental training programs;
 - 2) budget information for the year in which the application is being made; and
 - 3) the certifications and assurances referred to in Section 235.20(c)(16) of this Part applicable to the renewal period.
- b) An Early Childhood Education Block Grant Program shall be approved for continuation provided that:
- 1) a need continues to exist for the program, as evidenced by the number or proportion of children and families to be served;
 - 2) the program components proposed will be effective in assisting at-risk children and families;
 - 3) the proposed budget is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided; and
 - 4) in the year previous to the continuation application, the applicant complied with the terms and conditions of any grant it received pursuant to this [Subpart A Part](#).

(Source: Amended at 30 Ill. Reg. 19383, effective November 28, 2006)

Section 235.70 Terms of the Grant

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- a) Expenditure reports must be filed electronically with the Division of Funding and Disbursements four times a year.
- b) Each grantee shall submit evaluation information on forms provided by the State Board of Education, specifying:
 - 1) descriptive statistics on the population served, eligibility, screening procedures and staff qualifications and training, including any social and emotional consultation services provided pursuant to Subpart C of this Part;
 - 2) descriptive information, including type and quality of the educational program, amount and extent of interagency collaboration, and parent education and involvement;
 - 3) the extent to which program objectives have been accomplished; and
 - 4) any similar program-related information that the State Superintendent of Education may request upon 30 days' written notice.
- c) An annual program review shall be conducted for each new project to ensure program quality, to assist in program improvement and to provide technical assistance.
- d) All equipment purchased by the grantee for the program with Early Childhood Block Grant funds must be documented on a form supplied by the State Board of Education and be maintained in the grantee's files.
- e) A time distribution worksheet shall be kept for any staff member in a part-time position.
- f) Grantees shall use funds provided under the Early Childhood Block Grant *to supplement, not supplant, funds received from any other source.* (Sections 2-3.71 and 2-3.89 of the School Code)
- g) Grant funds may not be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.

(Source: Amended at 30 Ill. Reg. 19383, effective November 28, 2006)

SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAM

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Section 235.100 Purpose; Eligible Applicants

- a) This Subpart B establishes the procedures and criteria for the approval of proposals submitted to the State Board of Education by eligible applicants for grants to assist in establishing Preschool for All Children programs authorized by Section 2-3.71(a)(4.5) of the School Code [105 ILCS 5/2-3.71(a)(4.5)].
- b) Applicants eligible to apply for the Preschool for All Children program are those listed in Section 235.10(b) and (c) of this Part.
- c) This Subpart is repealed as of June 30, 2008 (see Section 2-3.71(a)(4.5) of the School Code).

(Source: Added at 30 Ill. Reg. 19383, effective November 28, 2006)

Section 235.110 Application Procedure and Content for New or Expanding Programs

In addition to meeting the requirements set forth in Section 235.20 of this Part (with the exception of Section 235.20(c)(6) of this Part) and Section 235.30 of this Part, each application for funding for a Preschool for All Children program shall provide the following.

- a) Each applicant shall describe whether the program qualifies as a program serving primarily at-risk children or a program serving primarily children whose families meet the income guidelines set forth in Section 2-3.71(a)(4.5) of the School Code.
 - 1) A program serving "primarily at-risk children" is one that:
 - A) has 51 percent or more of the enrolled children identified as being at risk of academic failure (see Sections 235.10(a)(3) and 235.20(c)(5) of this Part).
 - B) gives priority for enrollment to academically at-risk students over those students who have not been identified as academically at risk, and
 - C) has taken specific proactive measures to ensure that parents of children who may be at risk of academic failure are aware of the opportunity for preschool education through the Preschool for All Children program.

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- 2) A program serving "primarily children whose families meet income guidelines" is one that has 51 percent or more of the enrolled children from families meeting the income guidelines and does not qualify under subsection (a)(1) of this Section as serving primarily academically at-risk children.
- 3) Each applicant shall estimate the percentage of children to be enrolled who are considered to be at risk of academic failure or whose families meet income guidelines, as applicable.
- b) Programs serving primarily at-risk children shall describe:
 - 1) the process to ensure that, if the program has a waiting list of children to be enrolled, all children identified as being at risk of academic failure are enrolled before other children not identified as being at risk; and
 - 2) the specific proactive measures the program has taken or will take to ensure that parents of children who may be at risk of academic failure are made aware of the opportunity to participate in the Preschool for All Children program.
- c) Each applicant shall describe the provisions to be made to allow for:
 - 1) the participation of children with disabilities in the program, and
 - 2) the continued participation of children of homeless families in the program in those instances in which the children move outside the area served by the Preschool for All Children program.
- d) Each applicant shall describe the parent education and involvement component, which shall include activities in each of the following areas.
 - 1) Communication between home and the Preschool for All Children program that is regular, two-way and meaningful.
 - 2) Parenting skills are promoted and supported.
 - 3) Recognition that parents play an integral role in assisting student learning.
 - 4) Parents are welcome in the program, and their support and involvement are sought.

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- 5) Parents are full partners in the decisions that affect children and families.

(Source: Added at 30 Ill. Reg. 19383, effective November 28, 2006)

Section 235.120 Proposal Review and Approval for New or Expanding Programs

In order to meet the funding priorities set forth in Section 2-3.71(a)(4.5) of the School Code, each proposal shall be reviewed using both quantitative and qualitative criteria.

- a) Proposals shall first be screened to identify those proposals that meet the criteria for each funding priority (see Section 235.110(a) of this Part). Proposals shall be separated into the following three categories:
- 1) proposals serving primarily at-risk children.
 - 2) proposals serving primarily children whose families meet income guidelines, and
 - 3) all other proposals.
- b) Within each of the three categories set forth in subsection (a) of this Section, the proposals shall be reviewed and scored using the qualitative criteria set forth in Section 235.50(a) of this Part to determine which proposals provide evidence of a "qualified program". "Qualified programs" shall be those scoring at least 60 out of 100 total points.
- 1) All qualified programs within the category set forth in subsection (a)(1) of this Section shall be funded before funding any qualified programs in the categories set forth in subsection (a)(2) or (a)(3) of this Section.
 - 2) All qualified programs within the category set forth in subsection (a)(2) of this Section shall be funded before funding any qualified programs in the category set forth in subsection (a)(3) of this Section.
 - 3) Within each category, priority for funding will be given to substantially similar proposals that:
 - A) serve children from a community with limited preschool programs or few resources promoting preschool education, or

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- B) include a signed partnership agreement with the local Head Start program.
- c) The selection of proposals for funding may be based in part on the need to make programs available on a statewide basis and/or provide resources to school districts and communities with varying demographic characteristics.
- d) The State Superintendent of Education shall determine the amount of individual grant awards. The final award amounts shall be based upon:
 - 1) the total amount of funds available for the Preschool for All Children program; and
 - 2) the resources requested in the top-ranked proposals, as identified pursuant to subsections (b) and (c) of this Section.

(Source: Added at 30 Ill. Reg. 19383, effective November 28, 2006)

Section 235.130 Application Content and Approval for Continuation Programs

The requirements of this Section shall apply to those applicants seeking funding to continue Preschool for All Children programs beyond the initial grant period.

- a) In order to continue to operate a Preschool for All Children program, a grantee each year shall electronically submit an application for continuation. The application shall include at least the following:
 - 1) an overview of the program, addressing the program components outlined in Sections 235.20 and 235.110 of this Part;
 - 2) budget information for the year in which the application is being made; and
 - 3) the certifications and assurances referred to in Section 235.20(c)(16) of this Part applicable to the renewal period.
- b) A Preschool for All Children program shall be approved for continuation provided that:
 - 1) a need continues to exist for the program, as evidenced by the number or proportion of children and families to be served;

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- 2) the program components proposed will be effective in meeting the needs of children and families to be served by the program;
- 3) the proposed budget is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided; and
- 4) in the year previous to the continuation application, the applicant complied with the terms and conditions of any grant it received pursuant to this Subpart B.

(Source: Added at 30 Ill. Reg. 19383, effective November 28, 2006)

Section 235.140 Terms of the Grant

In addition to meeting each of the requirements set forth in Section 235.70 of this Part, each grantee receiving funding for a Preschool for All Children program shall comply with the following terms and conditions of the grant.

- a) Each grantee is required to collaborate with its local Head Start program. Children currently enrolled or pre-enrolled in Head Start shall not be recruited to be in the Preschool for All Children program.
- b) Each grantee with a program funded to serve primarily at-risk children shall be required to:
 - 1) enroll 51 percent or more of children who have been identified as being at risk of academic failure,
 - 2) give priority in enrollment to children identified as being at risk of academic failure over those children who are not academically at risk, and
 - 3) take specific proactive measures to ensure that the parents of children who may be academically at risk are made aware of the availability of the opportunity for participation in the Preschool for All Children program.
- c) Any grantee that fails to enroll the required percentage of children (at least 51 percent) in the particular prioritization category for which the proposal was funded (i.e., at-risk status or income levels) shall have its grant award reduced proportionate to the decrease in percentage of such children enrolled.

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- d) School district grantees with programs serving homeless children must comply with all applicable provisions of the McKinney-Vento Homeless Assistance Act (42 USC 11301 et seq.). Non-school district grantees should, as much as possible, ensure that homeless children enrolled in their programs receive the support necessary for successful and continued participation, including, without limitation, arranging for appropriate transportation, when necessary in cases where such children move outside of the area served by the program during the grant period.
- e) Staff from the Illinois State Board of Education shall conduct an annual program review for each new project to ensure program quality, to assist in program improvement and to provide technical assistance.

(Source: Added at 30 Ill. Reg. 19383, effective November 28, 2006)

SUBPART C: SOCIAL AND EMOTIONAL CONSULTATION SERVICESSection 235.200 Implementation and Purpose; Eligible Applicants

- a) The State Superintendent of Education may annually allocate a portion of the Early Childhood Block Grant to assist preschool education programs funded under Section 2-3.71 of the School Code in providing to teachers in their programs ongoing social and emotional consultation services from mental health professionals.
- b) For the purposes of this Subpart C, social and emotional consultation services shall mean services that help prepare teachers to promote the social and emotional development of their students and to manage inappropriate classroom behaviors that may result from a student's exposure to such challenges as domestic violence, substance abuse, depression or other mental illness, homelessness and other potential concerns.
- c) Eligible applicants are those programs operating either a Prekindergarten Program for Children at Risk of Academic Failure or a Preschool for All Children program during the fiscal year in which funds are made available for social and emotional consultation services.
- 1) Joint applications may be submitted, in which case one of the programs shall be designated as the administrative agent.

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- 2) A program shall only participate in one proposal for social and emotional consultation services.

(Source: Added at 30 Ill. Reg. 19383, effective November 28, 2006)

Section 235.210 Application Procedure and Content

- a) When an allocation for social and emotional consultation services is made available pursuant to Section 235.200(a) of this Part, the State Superintendent of Education shall issue a Request for Proposals (RFP) specifying the information that applicants shall include in their proposals, informing applicants of any bidders' conferences, and requiring that proposals be submitted no later than the date specified in the RFP. The RFP shall provide at least 30 calendar days in which to submit proposals.
- b) Each proposal submitted in response to an RFP shall include the following components.
- 1) A description of the need for the services, to include, but not limited to:
 - A) the number or proportion of students who are being served in each State-funded preschool program included in the proposal who come from families experiencing the type of problems outlined in Section 235.200(b) of this Part.
 - B) the impact that these types of problems have in the classroom (e.g., classroom disruptions, difficulties in learning, lack of positive social interaction);
 - C) the number of teachers likely to use the consultation services on an ongoing basis; and
 - D) other resources that may be available to the program to provide similar services.
 - 2) A description of the types of services to be provided, to include the frequency of each, the person responsible, and how the effectiveness of the service will be measured.

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- 3) A description of the process, measures and data elements to be used to determine the effectiveness of the consultation services on teacher quality and classroom management.
- 4) The name of each individual to provide the social and emotional consultation services, to include a description of his or her qualifications and experience that at least addresses the person's educational attainment and specialties, experience working with a population similar to that being served in the State-funded preschool program, and evidence that he or she possesses any licenses or other credentials required to practice his or her profession.
- 5) Such certifications and assurances as the State Board of Education may require.

(Source: Added at 30 Ill. Reg. 19383, effective November 28, 2006)

Section 235.220 Proposal Review and Approval of Proposals

- a) Proposals shall first be screened to identify those proposals that demonstrate the greatest need for social and emotional consultation services as evidenced by the proportion of students in the program who come from families experiencing the type of problems outlined in Section 235.200(b) of this Part. Proposals shall be separated into the following three categories:
 - 1) proposals that are among the top one-third of all proposals received demonstrating the largest proportion of students who meet the criteria;
 - 2) proposals that are among the middle one-third of all proposals received demonstrating the largest proportion of students who meet the criteria; and
 - 3) all other proposals.
- b) Within each of the three categories set forth in subsection (a) of this Section, the proposals shall be reviewed and scored using the qualitative criteria set forth in subsection (c) of this Section to determine which proposals provide evidence of a "qualified program". "Qualified programs" shall be those scoring at least 60 out of 100 total points.

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- 1) All qualified programs within the category set forth in subsection (a)(1) of this Section shall be funded before funding any qualified programs in the categories set forth in subsection (a)(2) or (a)(3) of this Section.
 - 2) All qualified programs within the category set forth in subsection (a)(2) of this Section shall be funded before funding any qualified programs in the categories set forth in subsection (a)(3) of this Section.
- c) Proposals submitted for funding to offer social and emotional consultation services shall be evaluated in accordance with the following criteria.
- 1) The proposal presents adequate procedures for assessing the specific needs of teachers for assistance in supporting the social and emotional development of their students and in managing difficult classrooms. (20 points)
 - 2) The proposed activities are comprehensive and sound, offer a varied and full range of staff development experiences, and provide sufficient opportunities for learning so as to allow staff to effectively incorporate the training into their classroom management plans. (30 points)
 - 3) The proposed provider of the social and emotional consultation services has the qualifications and experience in early childhood mental health to successfully implement a high-quality training program. The proposed staffing level is sufficient to assure that the proposal's activities and services will be provided in an effective and efficient manner. (30 points)
 - 4) The proposed budget is consistent with the proposal's activities and appears to be cost-effective, as evidenced by the cost in relation to the numbers to be served and the services to be provided. (20 points)
- d) The State Superintendent of Education shall determine the amount of individual grant awards. The final award amounts shall be based upon:
- 1) the total amount of funds available for the social and emotional consultation services; and
 - 2) the resources requested in the top-ranked proposals, as identified pursuant to subsections (b) and (c) of this Section.

(Source: Added at 30 Ill. Reg. 19383, effective November 28, 2006)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Emergency Action:
 140.994 New Section
 140.995 New Section
 140.996 New Section
 140.997 New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: December 1, 2006
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment is not intended to expire before the end of the 150 day period.
- 7) Date Filed with the Index Department: November 28, 2006
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments concerning the Primary Care Case Management Program (PCCM) are being filed pursuant to the enactment of the State's budget implementation plan for fiscal year 2007. Public Act 94-838 grants emergency rulemaking authority for programs associated with a State Plan amendment; PCCM program meets the criterion.
- 10) Complete Description of the Subjects and Issues Involved: The emergency amendment, establishes panel sizes and defines the ability of providers to affiliate; defines the mandatory enrollment process; defines those services that are direct access, and sets forth a provision that providers will be denied payment for services provided without a referral.
- 11) Are there any other amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.490	Amendment	30 Ill. Reg. 12066; 07/14/06
140.492	Amendment	30 Ill. Reg. 12066; 07/14/06
140.990	New Section	30 Ill. Reg. 13633; 08/18/06

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140.991	New Section	30 Ill. Reg. 13633;08/18/06
140.992	New Section	30 Ill. Reg. 13633; 08/18/06
140.993	New Section	30 Ill. Reg. 13633; 08/18/06
140.13	Amendment	30 Ill. Reg. 14007; 08/25/06
140.15	Amendment	30 Ill. Reg. 14007; 08/25/06
140.18	Amendment	30 Ill. Reg. 14007; 08/25/06
140.20	Amendment	30 Ill. Reg. 14007; 08/25/06
140.24	Amendment	30 Ill. Reg. 14007; 08/25/06
140.25	Amendment	30 Ill. Reg. 14007; 08/25/06
140.28	Amendment	30 Ill. Reg. 14007; 08/25/06
140.30	Amendment	30 Ill. Reg. 14007; 08/25/06
140.33	Amendment	30 Ill. Reg. 14007; 08/25/06
140.1001	Amendment	30 Ill. Reg. 14007; 08/25/06
140.1002	Amendment	30 Ill. Reg. 14007; 08/25/06
140.1003	Amendment	30 Ill. Reg. 14007; 08/25/06
140.1004	Amendment	30 Ill. Reg. 14007; 08/25/06
140.1005	Amendment	30 Ill. Reg. 14007; 08/25/06
140.469	Amendment	30 Ill. Reg. 17719; 11/13/06
140.526	Amendment	30 Ill. Reg. 17719; 11/13/06
140.530	Amendment	30 Ill. Reg. 17719; 11/13/06
140.860	Amendment	30 Ill. Reg. 17719; 11/13/06

- 12) Statement of Statewide Policy Objective: These emergency amendments neither create nor expand any State mandate affecting units of local government.
- 13) Information and questions regarding these amendments shall be directed to:

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

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

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

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140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

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140.82	Developmentally Disabled Care Provider Fund
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140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
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140.96	General Requirements (Recodified)
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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
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- 140.362 Pre July 1, 1989 Services (Recodified)
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- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
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- 140.580 Mandated Capital Improvements (Repealed)
- 140.581 Qualifying as Mandated Capital Improvement (Repealed)
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- 140.584 Illinois Municipal Retirement Fund (IMRF)
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140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
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140.905	Statewide Rates (Repealed)
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140.908	Times and Staff Levels (Recodified)
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- 140.958 Admitting and Clinical Privileges (Recodified)
- 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
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- 140.970 Termination of ICARE Contracts (Recodified)
- 140.972 Hospital Services Procurement Advisory Board (Recodified)
- 140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
- 140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

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140.994 Panel Size and Affiliated Providers

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

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

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maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at

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12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended

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at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October

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1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236,

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effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg.

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10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 30 Ill. Reg. 17635, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days.

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAMSection 140.994 Panel Size and Affiliated ProvidersEMERGENCY

- a) PCPs may designate to the Department those providers who provide primary care coverage for the PCP's patients when the PCP is unavailable. Providers so designated will not need a referral in order to be reimbursed by the Department for services provided to that PCP's patients.

- b) The Department shall limit the number of patients enrolled with a PCP to 1,800. A PCP practicing with an Advanced Practice Nurse (APN), Physician's Assistant (PA) or Resident may have their panel size increased by 900 patients for each APN, PA or Resident in their practice.

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- c) A PCP may limit their panel to a specified number of patients less than the maximum number set forth in this Section, and may limit that panel to only their existing patients or existing patients and their family members and may limit patients by age or other factors relevant to the scope of their practice.
- d) In areas where there are an insufficient number of PCPs to adequately serve the population eligible to enroll in the PCCM program without exceeding the above panel limits, the Department may allow advanced practice nurses to enroll as PCPs.
- e) A PCP may decline to have patients auto-assigned to him or her who have not chosen that PCP.

(Source: Added by emergency rulemaking at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days)

Section 140.995 Mandatory Enrollment
EMERGENCY

- a) Effective on the dates set forth in subsection (e), individuals enrolled in programs administered by the Department under Article V of the Public Aid Code, the Children's Health Insurance Program Act, the Covering ALL KIDS Health Insurance Act, or the Veterans' Health Insurance Program Act and not excluded in Section 140.992(b) who are not enrolled in a Managed Care Organization must enroll with a PCP.
- b) HFS shall send a notice to each individual for whom enrollment in the PCCM program is mandatory, notifying the individual of the need to enroll with a Primary Care Provider, and explaining their options for doing so, and, where available, their options for enrolling with a Managed Care Organization (MCO). If the individual has not chosen a PCP within 30 days of the date of the first notice, the Department shall send a second notice to the individual instructing them to choose a PCP, and informing them that the Department will assign them to a PCP in the PCCM program if they do not choose one.
- c) Individuals who have not chosen a PCP, within 60 days of the date of their first notice shall be assigned by HFS to a PCP in the PCCM program in their service area. The algorithm used in the default enrollment process shall be in compliance with 42 CFR 438.50. The individual will be mailed a notice to inform them of

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NOTICE OF EMERGENCY AMENDMENTS

their assigned PCP. Assignment to a PCP shall be effective no sooner than 60 days after the date that the first notice is mailed by the Department.

- d) An individual and the PCP with whom that individual is enrolled will receive notice of the enrollment. Enrollment information will be available the day following the enrollment through internet-based and electronic eligibility verification systems.
- e) Mandatory enrollment shall be phased in effective with the dates set forth below.
 - 1) The Department will send notices to individuals living in Cook, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will counties beginning December 2006.
 - 2) The Department will send notices to individuals living in Boone, Bureau, Carroll, DeKalb, Fulton, Henderson, Henry, JoDaviess, Knox, LaSalle, Lee, Marshall, Mercer, Ogle, Peoria, Putnam, Rock Island, Stark, Stephenson, Tazewell, Warren, Whiteside, Winnebago, and Woodford counties beginning January 2007.
 - 3) The Department will send notices to individuals living in the remainder of the State beginning March 2007.
- f) Individuals may change PCPs within the PCCM program once per calendar month. Such changes shall be effective no later than the fourth day after the request for change is registered with the Department or its agent. In counties where managed care organizations operate, an individual enrolled in the PCCM program may disenroll from the PCCM program and enroll in a managed care organization, and an individual enrolled in a managed care organization may disenroll from the managed care organization and enroll in the PCCM program. Such enrollments shall be effective no later than the first day of the second month following the month in which the enrollee files the request.
- g) Clients living in a service area where there is no PCP available with capacity for an enrollment are excluded from mandatory enrollment requirements.
- h) A PCP may request that an individual assigned to them be disenrolled from them in accordance with 42 CFR 438.56.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- i) If an individual enrolled in the PCCM program loses Medicaid eligibility, and their Medicaid eligibility is reinstated within 60 days, that individual will be assigned to the PCP with whom they were assigned when their Medicaid eligibility terminated.
- j) If a PCP in the PCCM Program is terminated or otherwise becomes unavailable, an individual in the PCCM Program who is enrolled with that PCP, may access any Medicaid enrolled physician until that member is enrolled in a new PCP.

(Source: Added by emergency rulemaking at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days)

Section 140.996 Access to Health Care Services**EMERGENCY**

- a) With the exception of those direct access services identified in subsection (b), individuals enrolled with a PCP may only access health care services from that PCP, or a provider designated to the Department as affiliated with that PCP or a provider to whom that PCP has referred them.
- b) The following services shall be considered direct access. Individuals enrolled with a PCP do not need a referral in order to access the services listed in this subsection.
 - 1) Services provided to newborns up to 91 days after birth
 - 2) Family Planning and Obstetrical and Gynecological (OB/Gyn) Services
 - 3) Inpatient and Outpatient Hospital Services
 - 4) Shots/Immunizations
 - 5) Emergency Services
 - 6) Emergency and Non-Emergency Transportation
 - 7) Pharmaceuticals
 - 8) Dental Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 9) [Vision Services](#)
- 10) [Therapies](#)
- 11) [Mental Health and Substance Abuse Services](#)
- 12) [Outpatient Ancillary Services \(radiology, pathology, lab, anesthesia\)](#)
- 13) [Services to treat sexually transmitted diseases and tuberculosis](#)
- 14) [Early Intervention Services](#)
- 15) [Lead Screening and Epidemiological Services](#)
- 16) [Services provided in the following settings:](#)
 - A) [School-based/Linked clinics for children under age 21](#)
 - B) [School-Based clinics through Local Education Authorities for children under age 21](#)
 - C) [Local Health Departments](#)
 - D) [Mobile vans, with Department approval](#)
 - E) [FQHC homeless sites and migrant health centers](#)

(Source: Added by emergency rulemaking at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days)

Section 140.997 Payment for Services
EMERGENCY

[Effective on or after July 1, 2007, for individuals enrolled with a PCP, providers other than the individual's PCP or providers affiliated with that PCP shall not be reimbursed for services that are not direct access services, unless the individual was referred to that provider by the individual's PCP.](#)

(Source: Added by emergency rulemaking at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notice was received by the Joint Committee on Administrative Rules during the period of November 28, 2006 through December 4, 2006 and has been scheduled for review by the Committee at its December 12, 2006 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
1/11/07	<u>Illinois Racing Board</u> , Medication (11 Ill. Adm. Code 603)	9/1/06 30 Ill. Reg. 14260	12/12/06

PROCLAMATIONS

2006-396

CARBON MONOXIDE DETECTOR AWARENESS WEEK**December 4-10, 2006**

- WHEREAS, carbon monoxide is an odorless, tasteless, invisible gas that is produced when fossil fuels, such as natural gas, gasoline, wood, coal, propane, oil and methane, are burned incompletely; and
- WHEREAS, in the home, heating and cooking equipment that burn fossil fuels are potential sources of carbon monoxide, while vehicles or generators running in an attached garage can also cause dangerous levels of the gas; and
- WHEREAS, exposure to elevated levels of carbon monoxide can produce symptoms similar to influenza, food poisoning or other illnesses, including dizziness, nausea, headache, coughing, irregular heartbeat, and pale skin with cherry red lips and ear tips; and
- WHEREAS, approximately 200 people die each year in the United States from carbon monoxide poisoning, and thousands more are sickened by exposure to the gas; and
- WHEREAS, these deaths and illnesses can be prevented when homes and apartments are equipped with working carbon monoxide detectors, which alert residents to the presence of dangerous levels of carbon monoxide gas; and
- WHEREAS, the Illinois General Assembly approved and I signed into law this spring the Carbon Monoxide Alarm Detector Act, which requires, beginning January 1, 2007, for all homes and apartments that use fossil fuels or have an attached garage to have an approved, operating carbon monoxide detector installed within 15 feet of any sleeping area; and
- WHEREAS, the Office of the State Fire Marshal is working with local fire departments throughout the state to increase public awareness of the new law and how carbon monoxide detectors can save lives:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 4-10, 2006 as **CARBON MONOXIDE DETECTOR AWARENESS WEEK** in Illinois. During this week I urge all the citizens of Illinois to learn more about the dangers of carbon monoxide poisoning and ensure that their homes are equipped with working carbon monoxide detectors by January 1, 2007.

PROCLAMATIONS

Issued by the Governor on November 27, 2006.
Filed by the Secretary of State.

2006-397

VIETNAMESE ASSOCIATION OF ILLINOIS DAY

December 2, 2006

- WHEREAS, in 1976, the Vietnamese Association of Illinois (VAI) was established in Chicago as a not-for-profit, community based organization created by and for Vietnamese people; and
- WHEREAS, VAI provides support and assistance to thousands of refugees and immigrants from Vietnam and other nations annually in various programs including: job counseling and placement, vocational training, ESL/Literacy, small business development, citizenship education, women's health education, and comprehensive elderly and youth services; and
- WHEREAS, the VAI aims to promote, support, and implement a variety of social services, educational activities, and cultural programs in the Vietnamese community and to encourage the spirit of mutual assistance and self-sufficiency among Vietnamese Americans; and
- WHEREAS, this year, on December 2, 2006, the Vietnamese Association of Illinois will be holding its Annual Fundraising Dinner celebrating with the theme: "30 Years: Remembering the Past, Preparing for Our Future" at the White Eagle Banquet Hall in Niles, Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 2, 2006 as **VIETNAMESE ASSOCIATION OF ILLINOIS DAY** in Illinois.

Issued by the Governor on November 27, 2006.
Filed by the Secretary of State.

2006-398

NATIONAL PEARL HARBOR REMEMBRANCE DAY

December 7, 2006

- WHEREAS, on the morning of December 7, 1941, America was attacked without warning at Pearl Harbor, Hawaii, by the air and naval forces of Imperial Japan; and

PROCLAMATIONS

- WHEREAS, more than 2,400 people perished and another 1,100 were wounded, triggering our entry into World War II; and
- WHEREAS, today, we honor those killed 65 years ago and those who survived to fight on other fronts in the four succeeding years of the war; and
- WHEREAS, the attack on Pearl Harbor fired the American spirit with a determination that freedom would not fall to tyranny; and the United States and its allies fought to victory, preserving a world in which democracy could grow; and
- WHEREAS, we are grateful for the service of the brave men and women of the United States Military who were there at Pearl Harbor that tragic day in history, and honor them by pledging to do our best to secure for our children, our grandchildren, and all of posterity the continuing blessings of liberty:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 7, 2006 as NATIONAL PEARL HARBOR REMEMBRANCE DAY in Illinois, and encourage all citizens to observe this solemn occasion with appropriate ceremonies and with reverence.

Issued by the Governor on November 28, 2006.
Filed by the Secretary of State.

2006-399
METH PREVENTION DAY
November 30, 2006

- WHEREAS, methamphetamine, or meth, is one of the biggest threats to our rural communities and the families who live in them; and
- WHEREAS, meth is a powerful stimulant that affects the central nervous system, and is derived from ephedrine or pseudoephedrine, commonly used in cold medicine; and
- WHEREAS, chronic abuse of meth can lead to psychotic behavior, characterized by intense paranoia, hallucinations, and out-of-control rages that can be coupled with extremely violent behavior; and
- WHEREAS, the Illinois Department of Corrections (IDOC) reports that approximately 800 offenders in the Department have been incarcerated for meth related crimes; and

PROCLAMATIONS

WHEREAS, in FY04, Illinois had 490 inmates in prison for meth-related offenses. In FY05, that number jumped to 541 meth-related inmates. Many more inmates may be currently incarcerated for violent or property crimes that were related to a meth addiction; and

WHEREAS, over two years, my administration will create two Meth Units, one at Southwestern Illinois Correctional Center (SWICC) and one at Sheridan. This year, we will create a 200 bed Meth Unit at the 667 bed Southwestern Illinois Correctional Center and make the entire prison another fully dedicated drug prison and reentry program in the model of Sheridan. Next year, we will expand the Sheridan Correctional Center from 950 offenders to its full capacity of 1300 offenders, with 200 of those spaces to be used for another Meth Unit; and

WHEREAS, my administration has charged the IDOC to develop a cutting-edge new model for the nation that will reduce recidivism among meth-addicted offenders, and will be launched at SWICC and then added to Sheridan; and

WHEREAS, inmates at Southwestern and Sheridan will participate in integrated programs including drug treatment, vocational training, education, and closely supervised community reentry; and

WHEREAS, in order to break the cycle of crime and addiction, these Meth Units will enable meth-addicted prisoners to receive treatment, counseling, and job training. Thus, these prisoners will have a better chance of leaving prison without the drug addiction that threatens their lives and our communities:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 30, 2006 as **METH PREVENTION DAY** in Illinois.

Issued by the Governor on November 28, 2006.

Filed by the Secretary of State.

2006-400

MIGUEL DEL VALLE DAY

November 30, 2006

WHEREAS, on November 30, 2006, Senator Miguel del Valle of the 2nd District is retiring from his 20-year career in the Illinois Senate and will become the first Latino to serve as the City Clerk of the City of Chicago; and

PROCLAMATIONS

- WHEREAS, Senator Miguel del Valle has led an honorable and distinguished career in public service. He has served on the Illinois Democratic State Central Committee, as the Unit Director of Barreto Boys and Girls Club, as the Executive Director of Association House, and as a full-time State Senator since 1987; and
- WHEREAS, born on July 24, 1951 in Puerto Rico, Senator del Valle grew up in the West Town and Humboldt Park areas of Chicago. He graduated from Tuley High School (now Roberto Clemente High School) in 1969 and went on to Northeastern Illinois University, where he earned his Bachelor's degree in Secondary Education and his Master's degree in Counseling; and
- WHEREAS, as the first Latino elected to the Illinois Senate, Senator del Valle was also the first Latino to serve as Assistant Majority Leader in the Illinois Senate, where he has been an outspoken advocate for Latino representation in all levels and branches of government. His leadership in redistricting cases in 1981, 1992, and 2001 led to the creation of Latino majority districts on the City, County, and State levels; and
- WHEREAS, as a leading advocate for enhancing the education of all our youth, Senator del Valle was the first to champion the free school breakfast and lunch programs in Illinois schools and he continues to be a strong proponent of providing comprehensive health coverage for every child in Illinois; and
- WHEREAS, Senator del Valle is the founder of the Illinois Association of Hispanic State Employees (IAHSE). He also co-founded numerous other Latino organizations, including the Illinois Legislative Latino Caucus, of which he is a co-chair; the Illinois Latino Advisory Council on Higher Education (ILACHE); the Alliance of Latinos and Jews; the Illinois Hispanic Democratic Council (IHDC); and he developed the annual Department of Children and Family Services Hispanic Families Conference; and
- WHEREAS, the State of Illinois congratulates Senator Miguel del Valle on his 20-year career in the Illinois Senate, and wishes him well in his new role with the City of Chicago and in all his future endeavors:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 30, 2006 as **MIGUEL DEL VALLE DAY** in Illinois, and thank Senator del Valle for his dedicated service in the Illinois Senate.

Issued by the Governor on November 29, 2006.

PROCLAMATIONS

Filed by the Secretary of State.

2006-401

ILLINOIS FAMILY BUSINESS OF THE YEAR DAY

December 7, 2006

- WHEREAS, the 2006 Illinois Family Business of the Year Awards will be given out by the Loyola University Chicago Family Business Center and Harris; and
- WHEREAS, the Loyola University Chicago Family Business Center is an internationally recognized pioneer and leader in family business program development and research, serving as a resource to family businesses in the Chicago region and throughout the nation. The Family Business Center businesses employ over 50,000 workers and exceed \$20 billion dollars in annual sales; and
- WHEREAS, family-owned businesses account for more than half of the nation's total employment, new job creation, and gross domestic product. Illinois is second in the United States in both longevity and revenue size of its family businesses; and
- WHEREAS, since 1994, these awards have honored family firms throughout Illinois who have excelled in both business and balancing family responsibilities; and
- WHEREAS, there are awards in five categories: small (companies with fewer than 50 employees), medium (50 to 250), large (more than 250), Community Service, and Century Award; and
- WHEREAS, in addition to business success, those recognized will have demonstrated positive family/business linkage, multi-generational family business involvement, contributions to industry and community, and innovative business practices and strategies. Any family-owned business headquartered in Illinois is eligible to win; and
- WHEREAS, the Loyola University Chicago's Family Business Center will hold its 13th Annual Awards Program on December 7, 2006, sponsored by Harris, at the Four Seasons Hotel – Chicago:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 7, 2006 as **ILLINOIS FAMILY BUSINESS OF THE YEAR DAY** in Illinois, and

PROCLAMATIONS

encourage all citizens to recognize the importance of family-owned businesses in this state and across the country.

Issued by the Governor on November 29, 2006.

Filed by the Secretary of State.

2006-402**PROCLAMATION TO DECLARE THE ELECTION OF STATEWIDE OFFICERS ON
THE 7th OF NOVEMBER, 2006**

WHEREAS, On the 7th day of November, 2006, an election was held in the State of Illinois for the election of the following officers, to-wit:

One (1) Governor for the full term of four years.

One (1) Lieutenant Governor for the full term of four years.

One (1) Attorney General for the full term of four years.

One (1) Secretary of State for the full term of four years.

One (1) Comptroller for the full term of four years.

One (1) Treasurer for the full term of four years.

WHEREAS, In pursuance of Law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this the 1st day of December, 2006, canvass the same, and as a result of such canvass, did declare elected the following named persons to the following named offices:

GOVERNOR

Rod R. Blagojevich

LIEUTENANT GOVERNOR

Pat Quinn

ATTORNEY GENERAL

Lisa Madigan

SECRETARY OF STATE

Jesse White

PROCLAMATIONS

COMPTROLLER

Daniel W. Hynes

TREASURER

Alexander Giannoulis

THEREFORE, I, ROD R. BLAGOJEVICH, Governor of the State of Illinois, in conformity to statute in such case made and provided, do hereby make public proclamation, declaring as a result of such canvass the foregoing persons duly elected to the offices as set out above.

2006-403**PROCLAMATION TO DECLARE THE ELECTION OF CONGRESSIONAL REPRESENTATIVES, REPRESENTATIVES TO THE GENERAL ASSEMBLY, AND STATE SENATORS ON THE 7th DAY OF NOVEMBER, 2006**

WHEREAS, On the 7th day of November, 2006, an election was held in the State of Illinois for the election of the following officers, to-wit:

Nineteen (19) Representatives in Congress, to-wit: One (1) Representative in Congress from each of the nineteen (19) Congressional Districts of the State for the full term of two years.

Nineteen (19) State Senators, to-wit: One (1) State Senator from the 3rd, 6th, 9th, 12th, 15th, 18th, 21st, 24th, 27th, 30th, 33rd, 36th, 39th, 42nd, 45th, 48th, 51st, 54th and 57th Legislative District for the full term of two years.

Twenty (20) State Senators, to-wit: One (1) State Senator from the 1st, 4th, 7th, 10th, 13th, 16th, 19th, 22nd, 25th, 28th, 31st, 34th, 37th, 40th, 43rd, 46th, 49th, 52nd, 55th and 58th Legislative District for the full term of four years.

One Hundred Eighteen (118) Representatives in the General Assembly, to-wit: One (1) Representative from each of the one hundred eighteen (118) Representative Districts of the State for the full term of two years.

WHEREAS, In pursuance of Law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this 1st day of December, 2006, canvass the same, and as a result of such canvass, did declare elected the following named persons to the following named offices.

PROCLAMATIONS

**REPRESENTATIVES TO REPRESENT THE PEOPLE OF THE STATE OF ILLINOIS
IN THE 110th CONGRESS OF THE UNITED STATES**

FIRST CONGRESSIONAL DISTRICT

Bobby L. Rush

SECOND CONGRESSIONAL DISTRICT

Jesse L. Jackson Jr.

THIRD CONGRESSIONAL DISTRICT

Daniel William Lipinski

FOURTH CONGRESSIONAL DISTRICT

Luis V. Gutierrez

FIFTH CONGRESSIONAL DISTRICT

Rahm Emanuel

SIXTH CONGRESSIONAL DISTRICT

Peter J. Roskam

SEVENTH CONGRESSIONAL DISTRICT

Danny K. Davis

EIGHTH CONGRESSIONAL DISTRICT

Melissa Bean

NINTH CONGRESSIONAL DISTRICT

Janice D Schakowsky

TENTH CONGRESSIONAL DISTRICT

Mark Steven Kirk

ELEVENTH CONGRESSIONAL DISTRICT

Gerald C. "Jerry" Weller

TWELFTH CONGRESSIONAL DISTRICT

Jerry F. Costello

THIRTEENTH CONGRESSIONAL DISTRICT

Judy Biggert

PROCLAMATIONS

FOURTEENTH CONGRESSIONAL DISTRICT

J. Dennis Hastert

FIFTEENTH CONGRESSIONAL DISTRICT

Timothy V. Johnson

SIXTEENTH CONGRESSIONAL DISTRICT

Donald A. Manzullo

SEVENTEENTH CONGRESSIONAL DISTRICT

Phil Hare

EIGHTEENTH CONGRESSIONAL DISTRICT

Ray LaHood

NINETEENTH CONGRESSIONAL DISTRICT

John M. Shimkus

**STATE SENATORS TO REPRESENT THE PEOPLE OF THE STATE OF ILLINOIS
IN THE 95th GENERAL ASSEMBLY OF THE STATE**

FIRST LEGISLATIVE DISTRICT

Antonio "Tony" Munoz

THIRD LEGISLATIVE DISTRICT

Mattie Hunter

FOURTH LEGISLATIVE DISTRICT

Kimberly A. Lightford

SIXTH LEGISLATIVE DISTRICT

John J. Cullerton

SEVENTH LEGISLATIVE DISTRICT

Carol Ronen

NINTH LEGISLATIVE DISTRICT

Jeffrey M. Schoenberg

TENTH LEGISLATIVE DISTRICT

James A. DeLeo

PROCLAMATIONS

TWELFTH LEGISLATIVE DISTRICT

Martin A. Sandoval

THIRTEENTH LEGISLATIVE DISTRICT

Kwame Raoul

FIFTEENTH LEGISLATIVE DISTRICT

James T. Meeks

SIXTEENTH LEGISLATIVE DISTRICT

Jacqueline "Jacqui" Y. Collins

EIGHTEENTH LEGISLATIVE DISTRICT

Edward D. Maloney

NINETEENTH LEGISLATIVE DISTRICT

M. Maggie Crotty

TWENTY-FIRST LEGISLATIVE DISTRICT

Dan Cronin

TWENTY-SECOND LEGISLATIVE DISTRICT

Michael Noland

TWENTY-FOURTH LEGISLATIVE DISTRICT

Kirk W. Dillard

TWENTY-FIFTH LEGISLATIVE DISTRICT

Chris Lauzen

TWENTY-SEVENTH LEGISLATIVE DISTRICT

Matt Murphy

TWENTY-EIGHTH LEGISLATIVE DISTRICT

John J. Millner

THIRTIETH LEGISLATIVE DISTRICT

Terry Link

THIRTY-FIRST LEGISLATIVE DISTRICT

Michael Bond

PROCLAMATIONS

THIRTY-THIRD LEGISLATIVE DISTRICT

Dan Kotowski

THIRTY-FOURTH LEGISLATIVE DISTRICT

Dave Syverson

THIRTY-SIXTH LEGISLATIVE DISTRICT

Mike Jacobs

THIRTY-SEVENTH LEGISLATIVE DISTRICT

Dale E. Risinger

THIRTY-NINTH LEGISLATIVE DISTRICT

Don Harmon

FOURTIETH LEGISLATIVE DISTRICT

Debbie DeFrancesco Halvorson

FORTY-SECOND LEGISLATIVE DISTRICT

Linda Holmes

FORTY-THIRD LEGISLATIVE DISTRICT

Arthur "A.J." Wilhelmi

FORTY-FIFTH LEGISLATIVE DISTRICT

Todd W. Sieben

FORTY-SIXTH LEGISLATIVE DISTRICT

David Koehler

FORTY-EIGHTH LEGISLATIVE DISTRICT

Randall M. "Randy" Hultgren

FORTY-NINTH LEGISLATIVE DISTRICT

Deanna Demuzio

FIFTY-FIRST LEGISLATIVE DISTRICT

Frank Watson

FIFTY-SECOND LEGISLATIVE DISTRICT

Michael W. Frerichs

PROCLAMATIONS

FIFTY-FOURTH LEGISLATIVE DISTRICT

John O. Jones

FIFTY-FIFTH LEGISLATIVE DISTRICT

Dale A. Righter

FIFTY-SEVENTH LEGISLATIVE DISTRICT

James F. Clayborne, Jr.

FIFTY-EIGHTH LEGISLATIVE DISTRICT

David Luechtefeld

**REPRESENTATIVES TO REPRESENT THE PEOPLE OF THE STATE OF ILLINOIS
IN THE 95th GENERAL ASSEMBLY OF THE STATE**

FIRST REPRESENTATIVE DISTRICT

Susana Mendoza

SECOND REPRESENTATIVE DISTRICT

Edward J. Acevedo

THIRD REPRESENTATIVE DISTRICT

William "Willie" Delgado

FOURTH REPRESENTATIVE DISTRICT

Cynthia Soto

FIFTH REPRESENTATIVE DISTRICT

Kenneth "Ken" Dunkin

SIXTH REPRESENTATIVE DISTRICT

Esther Golar

SEVENTH REPRESENTATIVE DISTRICT

Karen A. Yarbrough

EIGHTH REPRESENTATIVE DISTRICT

La Shawn K. Ford

NINTH REPRESENTATIVE DISTRICT

Arthur L. Turner

PROCLAMATIONS

TENTH REPRESENTATIVE DISTRICT

Annazette R. Collins

ELEVENTH REPRESENTATIVE DISTRICT

John A. Fritchey

TWELFTH REPRESENTATIVE DISTRICT

Sara Feigenholtz

THIRTEENTH REPRESENTATIVE DISTRICT

Gregory Harris

FOURTEENTH REPRESENTATIVE DISTRICT

Harry Osterman

FIFTEENTH REPRESENTATIVE DISTRICT

John C. D'Amico

SIXTEENTH REPRESENTATIVE DISTRICT

Lou Lang

SEVENTEENTH REPRESENTATIVE DISTRICT

Elizabeth Coulson

EIGHTEENTH REPRESENTATIVE DISTRICT

Julie Hamos

NINETEENTH REPRESENTATIVE DISTRICT

Joseph M. Lyons

TWENTIETH REPRESENTATIVE DISTRICT

Michael P. McAuliffe

TWENTY-FIRST REPRESENTATIVE DISTRICT

Robert S. Molaro

TWENTY-SECOND REPRESENTATIVE DISTRICT

Michael J. Madigan

TWENTY-THIRD REPRESENTATIVE DISTRICT

Daniel J. Burke

PROCLAMATIONS

TWENTY-FOURTH REPRESENTATIVE DISTRICT

Elizabeth "Lisa" Hernandez

TWENTY-FIFTH REPRESENTATIVE DISTRICT

Barbara Flynn Currie

TWENTY-SIXTH REPRESENTATIVE DISTRICT

Elga L. Jefferies

TWENTY-SEVENTH REPRESENTATIVE DISTRICT

Monique D. Davis

TWENTY-EIGHTH REPRESENTATIVE DISTRICT

Robert "Bob" Rita

TWENTY-NINTH REPRESENTATIVE DISTRICT

David E. Miller

THIRTIETH REPRESENTATIVE DISTRICT

William "Will" Davis

THIRTY-FIRST REPRESENTATIVE DISTRICT

Mary E. Flowers

THIRTY-SECOND REPRESENTATIVE DISTRICT

Milton "Milt" Patterson

THIRTY-THIRD REPRESENTATIVE DISTRICT

Marlow H. Colvin

THIRTY-FOURTH REPRESENTATIVE DISTRICT

Constance A. "Connie" Howard

THIRTY-FIFTH REPRESENTATIVE DISTRICT

Kevin Carey Joyce

THIRTY-SIXTH REPRESENTATIVE DISTRICT

James D. Brosnahan

THIRTY-SEVENTH REPRESENTATIVE DISTRICT

Kevin A. McCarthy

PROCLAMATIONS

THIRTY-EIGHTH REPRESENTATIVE DISTRICT

Robin Kelly

THIRTY-NINTH REPRESENTATIVE DISTRICT

Maria Antonia "Toni" Berrios

FORTIETH REPRESENTATIVE DISTRICT

Richard T. Bradley

FORTY-FIRST REPRESENTATIVE DISTRICT

Robert A. "Bob" Biggins

FORTY-SECOND REPRESENTATIVE DISTRICT

Sandra M. Pihos

FORTY-THIRD REPRESENTATIVE DISTRICT

Ruth Munson

FORTY-FOURTH REPRESENTATIVE DISTRICT

Fred Crespo

FORTY-FIFTH REPRESENTATIVE DISTRICT

Franco Coladipietro

FORTY-SIXTH REPRESENTATIVE DISTRICT

Dennis M. Reboletti

FORTY-SEVENTH REPRESENTATIVE DISTRICT

Patricia R. "Patti" Bellock

FORTY-EIGHTH REPRESENTATIVE DISTRICT

James H. "Jim" Meyer

FORTY-NINTH REPRESENTATIVE DISTRICT

Timothy L. Schmitz

FIFTIETH REPRESENTATIVE DISTRICT

Patricia Reid Lindner

FIFTY-FIRST REPRESENTATIVE DISTRICT

Ed Sullivan, Jr.

PROCLAMATIONS

FIFTY-SECOND REPRESENTATIVE DISTRICT

Mark H. Beaubien, Jr.

FIFTY-THIRD REPRESENTATIVE DISTRICT

Sidney H. Mathias

FIFTY-FOURTH REPRESENTATIVE DISTRICT

Suzanne "Suzie" Bassi

FIFTY-FIFTH REPRESENTATIVE DISTRICT

Randy Ramey

FIFTY-SIXTH REPRESENTATIVE DISTRICT

Paul Froehlich

FIFTY-SEVENTH REPRESENTATIVE DISTRICT

Elaine Nekritz

FIFTY-EIGHTH REPRESENTATIVE DISTRICT

Karen May

FIFTY-NINTH REPRESENTATIVE DISTRICT

Kathleen A. Ryg

SIXTIETH REPRESENTATIVE DISTRICT

Eddie Washington

SIXTY-FIRST REPRESENTATIVE DISTRICT

JoAnn D. Osmond

SIXTY-SECOND REPRESENTATIVE DISTRICT

Sandy Cole

SIXTY-THIRD REPRESENTATIVE DISTRICT

Jack D. Franks

SIXTY-FOURTH REPRESENTATIVE DISTRICT

Michael W. Tryon

SIXTY-FIFTH REPRESENTATIVE DISTRICT

Rosemary Mulligan

PROCLAMATIONS

SIXTY-SIXTH REPRESENTATIVE DISTRICT

Carolyn H. Krause

SIXTY-SEVENTH REPRESENTATIVE DISTRICT

Charles E. "Chuck" Jefferson

SIXTY-EIGHTH REPRESENTATIVE DISTRICT

Dave Winters

SIXTY-NINTH REPRESENTATIVE DISTRICT

Ronald A. Wait

SEVENTIETH REPRESENTATIVE DISTRICT

Robert W. Pritchard

SEVENTY-FIRST REPRESENTATIVE DISTRICT

Mike Boland

SEVENTY-SECOND REPRESENTATIVE DISTRICT

Patrick Verschoore

SEVENTY-THIRD REPRESENTATIVE DISTRICT

David R. Leitch

SEVENTY-FOURTH REPRESENTATIVE DISTRICT

Donald L. Moffitt

SEVENTY-FIFTH REPRESENTATIVE DISTRICT

Careen M. Gordon

SEVENTY-SIXTH REPRESENTATIVE DISTRICT

Frank J. Mautino

SEVENTY-SEVENTH REPRESENTATIVE DISTRICT

Angelo "Skip" Saviano

SEVENTY-EIGHTH REPRESENTATIVE DISTRICT

Deborah L. Graham

SEVENTY-NINTH REPRESENTATIVE DISTRICT

Lisa M. Dugan

PROCLAMATIONS

EIGHTIETH REPRESENTATIVE DISTRICT

George Scully

EIGHTY-FIRST REPRESENTATIVE DISTRICT

Renée Kosel

EIGHTY-SECOND REPRESENTATIVE DISTRICT

Jim Durkin

EIGHTY-THIRD REPRESENTATIVE DISTRICT

Linda Chapa LaVia

EIGHTY-FOURTH REPRESENTATIVE DISTRICT

Tom Cross

EIGHTY-FIFTH REPRESENTATIVE DISTRICT

Brent Hassert

EIGHTY-SIXTH REPRESENTATIVE DISTRICT

Jack McGuire

EIGHTY-SEVENTH REPRESENTATIVE DISTRICT

Bill Mitchell

EIGHTY-EIGHTH REPRESENTATIVE DISTRICT

Dan Brady

EIGHTY-NINTH REPRESENTATIVE DISTRICT

Jim Sacia

NINETIETH REPRESENTATIVE DISTRICT

Jerry L. Mitchell

NINETY-FIRST REPRESENTATIVE DISTRICT

Michael K. Smith

NINETY-SECOND REPRESENTATIVE DISTRICT

Aaron Schock

NINETY-THIRD REPRESENTATIVE DISTRICT

Jil Tracy

PROCLAMATIONS

NINETY-FOURTH REPRESENTATIVE DISTRICT

Richard P. "Rich" Myers

NINETY-FIFTH REPRESENTATIVE DISTRICT

Mike Fortner

NINETY-SIXTH REPRESENTATIVE DISTRICT

Joe Dunn

NINETY-SEVENTH REPRESENTATIVE DISTRICT

Jim Watson

NINETY-EIGHTH REPRESENTATIVE DISTRICT

Gary Hannig

NINETY-NINTH REPRESENTATIVE DISTRICT

Raymond Poe

ONE HUNDREDTH REPRESENTATIVE DISTRICT

Rich Brauer

ONE HUNDRED AND FIRST REPRESENTATIVE DISTRICT

Bob Flider

ONE HUNDRED AND SECOND REPRESENTATIVE DISTRICT

Ron Stephens

ONE HUNDRED AND THIRD REPRESENTATIVE DISTRICT

Naomi D. Jakobsson

ONE HUNDRED AND FOURTH REPRESENTATIVE DISTRICT

William B. "Bill" Black

ONE HUNDRED AND FIFTH REPRESENTATIVE DISTRICT

Shane Cultra

ONE HUNDRED AND SIXTH REPRESENTATIVE DISTRICT

Keith P. Sommer

ONE HUNDRED AND SEVENTH REPRESENTATIVE DISTRICT

Kurt M. Granberg

PROCLAMATIONS

ONE HUNDRED AND EIGHTH REPRESENTATIVE DISTRICT

David B. Reis

ONE HUNDRED AND NINTH REPRESENTATIVE DISTRICT

Roger L. Eddy

ONE HUNDRED AND TENTH REPRESENTATIVE DISTRICT

Chapin Rose

ONE HUNDRED AND ELEVENTH REPRESENTATIVE DISTRICT

Daniel V. Beiser

ONE HUNDRED AND TWELFTH REPRESENTATIVE DISTRICT

Jay C. Hoffman

ONE HUNDRED AND THIRTEENTH REPRESENTATIVE DISTRICT

Thomas "Tom" Holbrook

ONE HUNDRED AND FOURTEENTH REPRESENTATIVE DISTRICT

Wyvetter H. Younge

ONE HUNDRED AND FIFTEENTH REPRESENTATIVE DISTRICT

Mike Bost

ONE HUNDRED AND SIXTEENTH REPRESENTATIVE DISTRICT

Dan Reitz

ONE HUNDRED AND SEVENTEENTH REPRESENTATIVE DISTRICT

John Bradley

ONE HUNDRED AND EIGHTEENTH REPRESENTATIVE DISTRICT

Brandon W. Phelps

THEREFORE, I, ROD R. BLAGOJEVICH, Governor of the State of Illinois, in conformity to statute in such case made and provided, do hereby make public proclamation, declaring as a result of such canvass the foregoing persons duly elected to the offices as set out above.

2006-404

PROCLAMATION TO DECLARE THE ELECTION OF REGIONAL SUPERINTENDENTS OF SCHOOLS ON THE 7th DAY OF NOVEMBER, 2006

PROCLAMATIONS

WHEREAS, On the 7th day of November, 2006, an election was held in the State of Illinois for the election of the following officers, to-wit:

Twenty-eight (28) Regional Superintendents of Schools, to-wit: One (1) Regional Superintendent of Schools from the Adams and Pike Region; Alexander, Johnson, Massac, Pulaski and Union Region; Bond, Effingham and Fayette Region; Boone and Winnebago Region; Brown, Cass, Morgan and Scott Region; Bureau, Henry and Stark Region; Calhoun, Greene, Jersey and Macoupin Region; Carroll, JoDaviess and Stephenson Region; Champaign and Ford Region; Christian and Montgomery Region; Clark, Coles, Cumberland, Douglas, Edgar, Moultrie and Shelby Region; Clay, Crawford, Jasper, Lawrence and Richland Region; Clinton, Marion and Washington Region; DeWitt, Livingston and McLean Region; Edwards, Gallatin, Hardin, Pope, Saline, Wabash, Wayne and White Region; Franklin and Williamson Region; Fulton and Schuyler Region; Grundy and Kendall Region; Hamilton and Jefferson Region; Hancock and McDonough Region; Henderson, Mercer and Warren Region; Iroquois and Kankakee Region; Jackson and Perry Region; Lee and Ogle Region; Logan, Mason and Menard Region; Macon and Piatt Region; Marshall, Putnam and Woodford Region; Monroe and Randolph Region; for the full term of four years.

WHEREAS, In pursuance of Law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this the 1st day of December, 2006, canvass the same, and as a result of such canvass, did declare elected the following named persons to the following named offices:

REGIONAL SUPERINTENDENT OF SCHOOLS**ADAMS AND PIKE**

Raymond A. Scheiter

ALEXANDER, JOHNSON, MASSAC, PULASKI AND UNION

Janet Ulrich

BOND, EFFINGHAM AND FAYETTE

Mark A. Drone

BOONE AND WINNEBAGO

Richard L. Fairgrievies

PROCLAMATIONS

BROWN, CASS, MORGAN AND SCOTT

Stephen Breese

BUREAU, HENRY AND STARK

Bruce Dennison

CALHOUN, GREENE, JERSEY AND MACOUPIN

Larry Pfeiffer

CARROLL, JO DAVIESS AND STEPHENSON

Marie Stiefel

CHAMPAIGN AND FORD

Jane E. Quinlan

CHRISTIAN AND MONTGOMERY

Greg Springer

CLARK, COLES, CUMBERLAND, DOUGLAS, EDGAR, MOULTRIE AND SHELBY

John McNary

CLAY, CRAWFORD, JASPER, LAWRENCE AND RICHLAND

Carol S. Steinman

CLINTON, MARION AND WASHINGTON

Keri Garrett

DeWITT, LIVINGSTON AND McLEAN

G. Lawrence Daghe

EDWARDS, GALLATIN, HARDIN, POPE, SALINE, WABASH, WAYNE AND WHITE

Lawrence D. "Larry" Fillingim

FRANKLIN AND WILLIAMSON

Matt Donkin

FULTON AND SCHUYLER

Louise Bassett

GRUNDY AND KENDALL

Paul R. Nordstrom

PROCLAMATIONS

HAMILTON AND JEFFERSON

Bryan Cross

HANCOCK AND McDONOUGH

Gary L. Eddington

HENDERSON, MERCER AND WARREN

Glen W. Braden

IROQUOIS AND KANKAKEE

Kay M. Pangle

JACKSON AND PERRY

Robert L. "Bob" Koehn

LEE AND OGLE

Amy Jo Clemens

LOGAN, MASON AND MENARD

Jean R. Anderson

MACON AND PIATT

Richard "Dick" Shelby

MARSHALL, PUTNAM AND WOODFORD

Ronda J. Bangert

MONROE AND RANDOLPH

Marc L. Kiehna

THEREFORE, I, ROD R. BLAGOJEVICH, Governor of the State of Illinois, in conformity to statute in such case made and provided, do hereby make public proclamation, declaring as a result of such canvass the foregoing persons duly elected to the offices as set out above.

2006-405

**PROCLAMATION TO DECLARE THE RETENTION OF JUDICIAL CIRCUIT
AND COURT ON THE 7th DAY OF NOVEMBER, 2006**

WHEREAS, On the 7th day of November, 2006, an election was held in the State of Illinois for the election of the following judges, to-wit:

PROCLAMATIONS

Appellate Court Judges to fill the vacancy of the Honorable Neil F. Hartigan, to fill the vacancy of the Honorable Allen Hartman, First Judicial District; to fill the vacancy of the Honorable Kent F. Slater, Third Judicial District; to fill the vacancy of the Honorable Gordon E. Maag, Fifth Judicial District.

Circuit Court Judges to fill the vacancy of the Honorable Edward R. Burr, to fill the vacancy of the Honorable Aaron Jaffe, to fill the vacancy of the Honorable John E. Morrissey, to fill the vacancy of the Honorable Stuart Allen Nudelman, to fill the vacancy of the Honorable Stephen A. Schiller, to fill the vacancy of the Honorable Charles M. Travis, Cook County Judicial Circuit.

Circuit Court Judges to fill the vacancy of the Honorable Wilbur E. Crooks, to fill the vacancy of the Honorable Elliott Muse, Jr., First Subcircuit; to fill additional judgeship A, Second Subcircuit; to fill the vacancy of the Honorable Cyril J. Watson, Third Subcircuit; to fill the vacancy of the Honorable Llwellyn L. Greene-Thapedi, Fifth Subcircuit; to fill the vacancy of the Honorable James J. Jorzak, to fill additional judgeship A, Sixth Subcircuit; to fill additional judgeship A, Seventh Subcircuit; to fill the vacancy of the Honorable Francis Golniewicz, Tenth Subcircuit; to fill additional judgeship A, Eleventh Subcircuit; to fill the vacancy of the Honorable John K. Madden, to fill the vacancy of the Honorable Richard A. Siebel, to fill additional judgeship A, Twelfth Subcircuit; to fill the vacancy of the Honorable Janice L. Bierman, Thirteenth Subcircuit; to fill the vacancy of the Honorable Thomas E. Nowinski, Fifteenth Subcircuit, Cook County Judicial Circuit.

Circuit Court Judges to fill the vacancy of the Honorable Paul S. Murphy, First Judicial Circuit; to fill the vacancy of the Honorable George W. Timberlake, to fill the vacancy of the Honorable David M. Correll, Crawford County, Second Judicial Circuit; to fill the vacancy of the Honorable George J. Moran, to fill the vacancy of the Honorable Phillip Kardis, Madison County, Third Judicial Circuit; to fill the vacancy of the Honorable Steven P. Seymour, Effingham County, to fill the vacancy of the Honorable Michael Ross Weber, Jasper County, Fourth Judicial Circuit; to fill the vacancy of the Honorable Thomas J. Fahey, Vermilion County, Fifth Judicial Circuit; to fill the vacancy of the Honorable John G. Townsend, Champaign County, to fill the vacancy of the Honorable Frank W. Lincoln, Douglas County, Sixth Judicial Circuit; to fill the vacancy of the Honorable Thomas G. Russell, Jersey County, to fill the vacancy of the Honorable Joseph P. Koval, Macoupin County, to fill the vacancy of

PROCLAMATIONS

the Honorable Donald M. Cadagin, Sangamon County, Seventh Judicial Circuit; to fill the vacancy of the Honorable Dennis K. Cashman, Eighth Judicial Circuit; to fill the vacancy of the Honorable Chellis Eugene Taylor, Fulton County, to fill additional judgeship A, Fulton County, to fill the vacancy of the Honorable Harry Bulkeley, Knox County, to fill the vacancy of the Honorable Ronald C. Tenold, Warren County, Ninth Judicial Circuit; to fill the vacancy of the Honorable J. Peter Ault, Tazewell County, Tenth Judicial Circuit; to fill the vacancy of the Honorable Ronald C. Dozier, McLean County, Eleventh Judicial Circuit; to fill additional judgeship A, First Subcircuit, Twelfth Judicial Circuit; to fill the vacancy of the Honorable James T. Teros, Rock Island County, to fill the vacancy of the Honorable Timothy J. Slavin, Whiteside County, Fourteenth Judicial Circuit; to fill the vacancy of the Honorable Charles R. Hartman, Fifteenth Judicial Circuit; to fill the vacancy of the Honorable Gene L. Nottolini, Sixteenth Judicial Circuit; to fill the vacancy of the Honorable Richard W. Vidal, Seventeenth Judicial Circuit; to fill additional judgeship A, Nineteenth Judicial Circuit; to fill the vacancy of the Honorable James K. Donovan, to fill the vacancy of the Honorable Jerry D. Flynn, Randolph County, to fill the vacancy of the Honorable Lloyd A. Cueto, St. Clair County, Twentieth Judicial Circuit; to fill additional judgeship A, to fill additional judgeship A, First Subcircuit, to fill additional judgeship A, Second Subcircuit, Twenty-Second Judicial Circuit.

WHEREAS,

In pursuance of Law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this the 1st day of December, 2006, canvass the same, and as a result of such canvass, did declare elected the following named persons to the following named offices:

**APPELLATE COURT JUDGES
FIRST JUDICIAL DISTRICT**

(To fill the vacancy of the Honorable Neil F. Hartigan)
Michael James Murphy

(To fill the vacancy of the Honorable Allen Hartman)
Joy Virginia Cunningham

THIRD JUDICIAL DISTRICT

(To fill the vacancy of the Honorable Kent F. Slater)

PROCLAMATIONS

Vicki R. Wright

FIFTH JUDICIAL DISTRICT

(To fill the vacancy of the Honorable Gordon E. Maag)
Bruce Stewart

**JUDGES OF THE CIRCUIT COURT
COOK COUNTY JUDICIAL CIRCUIT**

(To fill the vacancy of the Honorable Edward R. Burr)
Aurelia Marie Pucinski

(To fill the vacancy of the Honorable Aaron Jaffe)
Michael J. Howlett, Jr.

(To fill the vacancy of the Honorable John E. Morrissey)
Mike McHale

(To fill the vacancy of the Honorable Stuart Allen Nudelman)
James Patrick Murphy

(To fill the vacancy of the Honorable Stephen A. Schiller)
Pamela E. Hill Veal

(To fill the vacancy of the Honorable Charles M. Travis)
Patrick W. "Pat" O'Brien

FIRST SUBCIRCUIT

(To fill the vacancy of the Honorable Wilbur E. Crooks)
Carl Anthony Walker

(To fill the vacancy of the Honorable Elliott Muse, Jr.)
Orville E. Hambright

SECOND SUBCIRCUIT

(To fill additional judgeship A)
Michael "Mike" Stuttley

THIRD SUBCIRCUIT

PROCLAMATIONS

(To fill the vacancy of the Honorable Cyril J. Watson)
Thomas W. Murphy

FIFTH SUBCIRCUIT

(To fill the vacancy of the Honorable Llwellyn L. Greene-Thapedi)
Diane M. Shelley

SIXTH SUBCIRCUIT

(To fill the vacancy of the Honorable James J. Jorzak)
Ramon Ocasio III

(To fill additional judgeship A)
Gloria Chevere

SEVENTH SUBCIRCUIT

(To fill additional judgeship A)
Carol M. Howard

TENTH SUBCIRCUIT

(To fill the vacancy of the Honorable Francis Golniewicz)
James Michael McGing

ELEVENTH SUBCIRCUIT

(To fill additional judgeship A)
Mary Colleen Roberts

TWELFTH SUBCIRCUIT

(To fill the vacancy of the Honorable John K. Madden)
Mary Katherine Rochford

(To fill the vacancy of the Honorable Richard A. Siebel)
Grace G. Dickler

(To fill additional judgeship A)
Ellen L. Flannigan

PROCLAMATIONS

THIRTEENTH SUBCIRCUIT

(To fill the vacancy of the Honorable Janice L. Bierman)
Jill C. Marisie

FIFTEENTH SUBCIRCUIT

(To fill the vacancy of the Honorable Thomas E. Nowinski)
Daniel Patrick Brennan

FIRST JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable Paul S. Murphy)
Brad K. Bleyer

SECOND JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable George W. Timberlake)
Melissa A. Drew

(To fill the vacancy of the Honorable David M. Correll)

CRAWFORD COUNTY

Christopher L. Weber

THIRD JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable George J. Moran)
Barbara L. Crowder

(To fill the vacancy of the Honorable Phillip Kardis)

MADISON COUNTY

David A. Hylla

FOURTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable Steven P. Seymour)

EFFINGHAM COUNTY

Kimberly G. Koester

PROCLAMATIONS

(To fill the vacancy of the Honorable Michael Ross Weber)

JASPER COUNTY
Daniel E. Hartigan

FIFTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable Thomas J. Fahey)

VERMILION COUNTY
Nancy S. Fahey

SIXTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable John G. Townsend)

CHAMPAIGN COUNTY
Jeffrey B. "Jeff" Ford

(To fill the vacancy of the Honorable Frank W. Lincoln)

DOUGLAS COUNTY
Michael G. Carroll

SEVENTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable Thomas G. Russell)

JERSEY COUNTY
Eric Pistorius

(To fill the vacancy of the Honorable Joseph P. Koval)

MACOUPIN COUNTY

Kenneth R. Deihl

(To fill the vacancy of the Honorable Donald M. Cadagin)

SANGAMON COUNTY
John Belz

PROCLAMATIONS

EIGHTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable Dennis K. Cashman)
William O. Mays, Jr.

NINTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable Chellis Eugene Taylor)

FULTON COUNTY
Edward R. Danner

(To fill additional judgeship A)

FULTON COUNTY
William "Bill" Davis

(To fill the vacancy of the Honorable Harry Bulkeley)

KNOX COUNTY
Scott Shiplett

(To fill the vacancy of the Honorable Ronald C. Tenold)

WARREN COUNTY
Gregory K. McClintock

TENTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable J. Peter Ault)

TAZEWELL COUNTY
Paul Gilfillan

ELEVENTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable Ronald C. Dozier)

McLEAN COUNTY
Kevin P. Fitzgerald

PROCLAMATIONS

**TWELFTH JUDICIAL CIRCUIT
FIRST SUBCIRCUIT**

(To fill additional judgeship A)
Edward Petka

FOURTEENTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable James T. Teros)

ROCK ISLAND COUNTY
F. Michael Meersman

(To fill the vacancy of the Honorable Timothy J. Slavin)

WHITESIDE COUNTY
Stanley B. Steines

FIFTEENTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable Charles R. Hartman)
Michael P. Bald

SIXTEENTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable Gene L. Nottolini)
Thomas E. Mueller

SEVENTEENTH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable Richard W. Vidal)
Ed Prochaska

NINETEENTH JUDICIAL CIRCUIT

(To fill additional judgeship A)
John T. Phillips

TWENTIETH JUDICIAL CIRCUIT

(To fill the vacancy of the Honorable James K. Donovan)
Patrick M. Young

PROCLAMATIONS

(To fill the vacancy of the Honorable Jerry D. Flynn)

RANDOLPH COUNTY
William A. Schuwerk, Jr.

(To fill the vacancy of the Honorable Lloyd A. Cueto)

ST. CLAIR COUNTY
Lloyd A. Cueto

TWENTY-SECOND JUDICIAL CIRCUIT

(To fill additional judgeship A)
Michael J. Chmiel

FIRST SUBCIRCUIT

(To fill additional judgeship A)
Charles P. Weech

SECOND SUBCIRCUIT

(To fill additional judgeship A)
Joseph P. Condon

THEREFORE, I, ROD R. BLAGOJEVICH, Governor of the State of Illinois, in conformity to statute in such case made and provided, do hereby make public proclamation, declaring as a result of such canvass the foregoing persons duly elected to the offices as set out above.

2006-406

PROCLAMATION TO DECLARE THE RETENTION OF JUDICIAL DISTRICTS ON THE 7th DAY OF NOVEMBER, 2006

WHEREAS, On the 7th day of November, 2006, an election was held in the State of Illinois for the retention of the following judges, to-wit:

Appellate Court Judges from the First and Fourth Judicial Districts;

Circuit Court Judges from the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth,

PROCLAMATIONS

Fifteenth, Sixteenth, Seventeenth, Eighteenth, Nineteenth, Twentieth, Twenty-first, and Cook County Judicial Circuits.

WHEREAS,

In pursuance of Law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this the 1st day of December, 2006, canvass the same, and as a result of such canvass, did declare retained the following named persons to the following named offices:

RETENTION
JUDGE OF THE APPELLATE COURT
FIRST JUDICIAL DISTRICT

Patrick J. Quinn
Leslie Elaine South

FOURTH JUDICIAL DISTRICT

James A. Knecht

JUDGES OF THE CIRCUIT COURT
FIRST JUDICIAL CIRCUIT

Terry J. Foster
Ronald R. Eckiss
Mark H. Clarke
Mark M. Boie

SECOND JUDICIAL CIRCUIT

Thomas H. Sutton
James M. Wexsten

THIRD JUDICIAL CIRCUIT

Charles Romani
Ann E. Callis
John Knight

FOURTH JUDICIAL CIRCUIT

David Sauer
Ron Spears
John Coady
Kathleen Moran
Sherri L. E. Tungate

PROCLAMATIONS

FIFTH JUDICIAL CIRCUIT

Craig H. DeArmond

SIXTH JUDICIAL CIRCUIT

John K. Greanias
Stephen H. Peters
Dan L. Flannell
Ted Paine
Michael Q. Jones

SEVENTH JUDICIAL CIRCUIT

Patrick Kelley
Leslie J. Graves

EIGHTH JUDICIAL CIRCUIT

David K. Slocum

TENTH JUDICIAL CIRCUIT

John A. Barra
Stuart P. Borden

ELEVENTH JUDICIAL CIRCUIT

Elizabeth A. Robb

TWELFTH JUDICIAL CIRCUIT

Daniel J. Rozak

THIRTEENTH JUDICIAL CIRCUIT

Cynthia M. Raccuglia

FOURTEENTH JUDICIAL CIRCUIT

Jeffrey W. O'Connor
Larry S. Vandersnick
Mark A. Vandewiele

FIFTEENTH JUDICIAL CIRCUIT

Stephen C. Pemberton

SIXTEENTH JUDICIAL CIRCUIT

Philip L. DiMarzio
R. Peter Grometer
Donald C. Hudson

PROCLAMATIONS

SEVENTEENTH JUDICIAL CIRCUIT

Frederick J. Kapala
Timothy R. Gill

EIGHTEENTH JUDICIAL CIRCUIT

Ann B. Jorgensen

NINETEENTH JUDICIAL CIRCUIT

Dave Hall
Maureen P. McIntyre

TWENTIETH JUDICIAL CIRCUIT

Milton S. Wharton
Jan Fiss

TWENTY-FIRST JUDICIAL CIRCUIT

Kendall O. Wenzelman

COOK COUNTY JUDICIAL CIRCUIT

Warren D. Wolfson
Carole Kamin Bellows
Alan J. Greiman
Barbara J. Disko
Kathy M. Flanagan
Ronald C. Riley
Moshe Jacobius
Stuart F. Lubin
Marvin P. Luckman
Henry Richard Simmons, Jr.
Raymond Funderburk
Stuart E. Palmer
Martin S. Agran
Patricia Banks
Ronald F. Bartkowicz
Robert Lopez Cepero
James F. Henry
Garritt E. Howard
Joseph G. Kazmierski, Jr.
Colleen McSweeney Moore
Ralph Reyna
Joseph J. Urso

PROCLAMATIONS

E. Kenneth Wright, Jr.
Edward R. Jordan
Cynthia Brim
Rodney Hughes Brooks
Thomas R. Chiola
Claudia Grace Conlon
Maureen Elizabeth Connors
Christopher Donnelly
James D. Egan
Margaret O'Mara Frossard
Catherine Marie Haberkorn
Marsha D. Hayes
Robert J. Kowalski
Lisa Ruble Murphy
Marya Nega
Edward P. O'Brien
Thomas Paul Panichi
Lee Stuart Preston
Daniel A. Riley
Drella C. Savage
Lon William Shultz
Victoria A. Stewart
Bill Taylor
Lawrence "Larry" Terrell
Amanda S. Toney
James M. Varga
Richard F. Walsh
Camille E. Willis
Marcia Maras
James R. Epstein
Peter Flynn
Paul A. Karkula
Michael T. Healy
Francis Joseph Dolan
P. Scott Neville, Jr.
Maura Slattery Boyle
Mary Margaret Brosnahan
Matthew E. Coghlan
Loretta Eadie-Daniels
Donna Phelps Felton
Joyce Marie Murphy Gorman
Anthony A. Iosco

PROCLAMATIONS

Marcella Carmen Lipinski
Joan Margaret O'Brien
Thomas David Roti
Colleen F. Sheehan
John Steele

THEREFORE, I, ROD R. BLAGOJEVICH, Governor of the State of Illinois, in conformity to statute in such case made and provided, do hereby make public proclamation, declaring as a result of such canvass the foregoing persons duly retained to the offices as set out above.

ILLINOIS ADMINISTRATIVE CODE

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