

# 2008

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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## INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

### 2008 REGISTER SCHEDULE VOLUME #32

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 21, 2007*	January 4, 2008
2	December 31, 2007	January 11, 2008
3	January 7, 2008	January 18, 2008
4	January 14, 2008	January 25, 2008
5	January 22, 2008	February 1, 2008
6	January 28, 2008	February 8, 2008
7	February 4, 2008	February 15, 2008
8	February 11, 2008	February 22, 2008
9	February 19, 2008	February 29, 2008
10	February 25, 2008	March 7, 2008
11	March 3, 2008	March 14, 2008
12	March 10, 2008	March 21, 2008
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14	March 24, 2008	April 4, 2008
15	March 31, 2008	April 11, 2008
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19	April 28, 2008	May 9, 2008
20	May 5, 2008	May 16, 2008
21	May 12, 2008	May 23, 2008
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24	June 2, 2008	June 13, 2008
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26	June 16, 2008	June 27, 2008
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40	September 22, 2008	October 3, 2008
41	September 29, 2008	October 10, 2008
42	October 6, 2008	October 17, 2008
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45	October 27, 2008	November 7, 2008
46	November 3, 2008	November 14, 2008
47	November 10, 2008	November 21, 2008
48	November 17, 2008	December 1, 2008
49	November 24, 2008	December 5, 2008
50	December 1, 2008	December 12, 2008
51	December 8, 2008	December 19, 2008
52	December 15, 2008	December 26, 2008
53	December 22, 2008	January 2, 2009

Editor's Note: The second filing period for submitting Regulatory Agendas will start October 14, 2008 with the last day to file being January 2, 2009.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Annual Audited Financial Report
- 2) Code Citation: 50 Ill. Adm. Code 925
- 3)
 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
925.20	Amendment
925.30	Amendment
925.40	Amendment
925.50	Amendment
925.60	Amendment
925.70	Amendment
925.80	Amendment
925.90	Amendment
925.100	Amendment
925.110	Amendment
925.115	Renumbered
925.120	Renumbered, Amendment
925.130	Renumbered, Amendment
925.140	New Section
925.145	Renumbered
925.150	New Section
925.160	New Section
925.170	Renumbered, Amendment
925.180	New Section
925.190	Renumbered
925.200	Renumbered
925.EXHIBIT A	Amendment
- 4) Statutory Authority: Implementing Sections 132.1 through 132.7, 136, 401, and 402 of the Illinois Insurance Code [215 ILCS 5/132.1 through 132.7, 136, 401, and 402], and Section 2-7 of the Health Maintenance Organization Act [215 ILCS 125/2-7], and Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007], and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of this regulation is to improve the Division's surveillance of the financial condition of insurers by requiring (1) an annual audit of financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants, (2)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

Communication of Internal Control Related Matters Noted in an Audit, and (3) Management's Report of Internal Control over Financial Reporting.

These Illinois amendments will revise existing requirements and standards consistent with NAIC Model #280. In addition, the Division will be adding four new Sections that address Requirements for Audit Committees; Conduct of Insurer in Connection with the Preparation of Required Reports and Documents; Management's Report of Internal Control over Financial Reporting and a Canadian and British Companies Section to this Part. Once adopted, companies should be advised that these amendments will be applied to the December 31, 2010 CPA audit report due in 2011.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising 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? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) 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.
- 12) 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:

James C. Rundblom, Staff Attorney  
Department of Financial and  
Professional Regulation  
Division of Insurance  
320 West Washington, 4<sup>th</sup> Floor  
Springfield, Illinois 62767-0001

or

Craig Cellini, Rules Coordinator  
Department of Financial and  
Professional Regulation  
320 West Washington  
3<sup>rd</sup> Floor  
Springfield, Illinois 62767-0001

217/785-8559

217/785-0813

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- 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: Please refer to the regulatory requirements specified.
  - C) Types of professional skills necessary for compliance: Accounting
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF [FINANCIAL AND PROFESSIONAL  
REGULATION](#)~~INSURANCE~~

## SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES

## PART 925

ANNUAL ~~AUDITED~~ FINANCIAL ~~REPORTING~~[REPORT](#)

## Section

925.10	Authority (Repealed)
925.20	Purpose and Scope
925.30	Definitions
925.40	<a href="#">General Requirements Related to Filing and Extensions for Filing of Annual Audited Financial Report and Audit Committee Appointment Reports</a>
925.50	Contents of Annual Audited Financial Report
925.60	Designation of <a href="#">Independent Certified Public</a> Accountant
925.70	Qualifications of <a href="#">Independent Certified Public</a> Accountant
925.80	Consolidated or Combined Audits
925.90	Scope of Audit and Report of <a href="#">Independent Certified Public</a> Accountant
925.100	Notification of Adverse Financial Condition
925.110	<a href="#">Communication of Internal Control Related Matters Noted in an Audit Report on Internal Control</a>
925.115	Accountant's Letter of Qualifications ( <a href="#">Renumbered</a> )
<del>925.120</del> <a href="#">925.115</a>	<a href="#">Accountant's Letter of Qualifications</a>
<del>925.130</del> <del>925.120</del>	<a href="#">Definition, Availability and Maintenance of Independent Certified Public Accountant Workpapers</a> <del>Definition, Availability and Maintenance of Accountant Workpapers</del>
<del>925.130</del>	<del>Examinations (Repealed)</del>
<del>925.140</del>	<del>Requirements for Audit Committees</del> <a href="#">Exemptions</a>
925.145	Penalties ( <a href="#">Renumbered</a> )
<del>925.150</del>	<del>Conduct of Insurer in Connection with the Preparation of Required Reports and Documents</del> <a href="#">Severability Provision</a>
<del>925.160</del>	<del>Management's Report of Internal Control over Financial Reporting</del>
<del>925.170</del> <del>925.140</del>	<del>Exemptions</del>
<del>925.180</del>	<del>Canadian and British Companies</del>
<del>925.190</del> <del>925.145</del>	<del>Penalties</del>
<del>925.200</del> <del>925.150</del>	<del>Severability Provision</del>
925.EXHIBIT A	CPA Letter of Representation

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing Sections 132.1 through 132.7, 136, 401, and 402 of the Illinois Insurance Code [215 ILCS 5/132.1 through 132.7, 136, 401, and 402], and Section 2-7 of the Health Maintenance Organization Act [215 ILCS 125/2-7], and Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007], and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Filed July 9, 1975, effective July 21, 1975; codified at 7 Ill. Reg. 2359; amended at 11 Ill. Reg. 18204, effective October 26, 1987; amended at 19 Ill. Reg. 12229, effective August 14, 1995; amended at 21 Ill. Reg. 1666, effective January 28, 1997; amended at 27 Ill. Reg. 16121, effective October 6, 2003; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 925.20 Purpose and Scope**

- a) The purpose of this Part is to improve the Director of the Division of Insurance's surveillance of the financial condition of insurers by requiring:
  - 1) An annual audit of financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants;
  - 2) Communication of Internal Control Related Matters Noted in an Audit;  
and
  - 3) Management's Report of Internal Control over Financial Reporting.
  
- b) Foreign or alien insurers filing the audited financial reports in another state, pursuant to that state's requirement for filing of audited financial reports, which has been found by the Director to be substantially similar to the requirements of this Part, are exempt from Sections 925.40 through 925.130 of this Part if:
  - 1) A copy of the audited financial report, Communication of Internal Control Related Matters Noted in an Audit, and Accountant's Letter of Qualifications that are filed with the other state are filed with the Director of the other state in accordance with the filing dates specified in Sections 925.40, 925.110 and 925.120, respectively (Canadian insurers may submit accountants' reports as filed with the Office of the Superintendent of Financial Institutions, Canada).

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 2) A copy of any Notification of Adverse Financial Condition Report filed with the other state is filed with the Director within the time specified in Section 925.100.
- c) Foreign or alien insurers required to file Management's Report of Internal Control over Financial Reporting in another state are exempt from filing the Report in this State provided the other state has substantially similar reporting requirements and the Report is filed with the Director of the other state within the time specified.
- d) This Part shall not prohibit, preclude or in any way limit the Director of the Division of Insurance from ordering and/or conducting and/or performing examinations of insurers under his or her jurisdiction in the operations, practices, procedures, or other matters, including financial condition and operations of thesueh insurers. Such examinations shall be conducted as currently established and/or performed or to be established and/or performed under the Statutes of the State of Illinois, the Rules of the Illinois DivisionDepartment of Insurance and the practices and procedures of the Illinois DivisionDepartment of Insurance. ~~The purpose of this Part is to improve the Director's surveillance of the financial condition of insurers by requiring an annual audit by accountants of the financial statements reporting the financial position and the results of operations of insurers. Every insurer, as defined in Section 925.30 of this Part, shall be subject to this Part except those insurers exempt under Section 925.140 of this Part.~~

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.30 Definitions**

Accountant or independent certified public accountant means an independent certified public accountant or independent accounting firm in good standing with the American Institute of Certified Public Accountants (AICPA) and all states in which the accountant is licensed to practice. For Canadian and British companies, accountant means a Canadian-chartered or British-chartered accountant generally referred to hereinafter in this Part as accountant.

Affiliate of, or person affiliated with, a specific person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

Audit Committee means a committee (or equivalent body) established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, and audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers solely for the purposes of this Part at the election of the controlling person. Refer to Section 925.140(e) of this Part for exercising this election. If an audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the audit committee.

~~Annual~~-Audited Financial Report means and includes those items specified in Section 925.50 of this Part.

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

Department means the 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.

Group of Insurers means those licensed insurers included in the reporting requirements of Article VIII½ of the Code, or a set of insurers as identified by management, for the purpose of assessing the effectiveness of internal control over financial reporting.

Health Maintenance Organization Act means 215 ILCS 125.

Idemnification means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from known or other misrepresentations made by the insurer or its representatives.

Independent Board Member has the same meaning as described in Section 925.140(c) of this Part.

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~~Independent for purposes of this Part means an accountant who is not affiliated with an insurer.~~

Insurer, for purposes of this Part, means a licensed insurer or accredited reinsurer as defined in Sections 2(f), (g) and (h) and 173.1 of the Code ~~[215 ILCS 5/2(f), (g) and (h) and 173.1]~~ or a Health Maintenance Organization as defined in Section 1-2(9) of the Health Maintenance Organization Act ~~[215 ILCS 125/1-2(9)]~~ or a Limited Health Service Organization as defined in Section 1002 of the Limited Health Service Organization Act ~~[215 ILCS 130/1002]~~.

Internal Control Over Financial Reporting means a process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, i.e., those items specified in Section 925.50(b)(2) through (8) of this Part, and includes those policies and procedures that:

Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

Provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, i.e., those items specified in Section 925.50(b)(2) through (9) of this Part, and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, i.e., those items specified in Section 925.50(b)(2) through (9) of this Part.

Limited Health Service Organization Act means 215 ILCS 130.

SEC means the United States Securities and Exchange Commission.

Section 404 means Section 404 of the Sarbanes-Oxley Act of 2002, as codified in 15 USC 7262.

Section 404 Report means Management's Report of Internal Control over Financial Reporting as defined by the SEC (17 CFR 240.13a-15(f)) and the

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

related attestation report of the independent certified public accountant as described in Section 925.160.

SOX Compliant Entity means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002:

the preapproval requirements of 15 USC 78j-1(i);

the audit committee independence requirements of 15 USC 78j-1 (m)(3);  
and

the internal control over financial reporting requirements of 17 CFR 229.308.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.40 General Requirements Related to Filing and Extensions for Filing of Annual Audited Financial Report and Audit Committee Appointment Reports**

- a) All insurers shall have an annual audit performed by an independent certified public accountant and shall file an annual audited financial report with the Director on or before June 1 for the year ended December 31 immediately preceding. The Director may require an insurer to file an annual audited financial report earlier than June 1 with 90 days advance notice to the insurer.
- b) Extensions of the June 1 filing date may be granted by the Director for 30 day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting such extension and a determination by the Director of good cause for an extension. Examples of "good cause" include, but are not limited to, an Act of God or fortuitous or unintentional destruction of documents. The request for extension must be submitted in writing not less than 10 days prior to the due date and must provide sufficient detail to permit the Director to make an informed decision with respect to the requested extension.
- c) If an extension is granted in accordance with the provisions in Section 925.40(b), a similar extension of 30 days is granted to the filing of Management's Report of Internal Control over Financial Reporting.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- d) [Every insurer required to file an annual audited financial report pursuant to this Part shall designate a group of individuals as constituting its audit committee, as defined in Section 925.30. The audit committee of an entity that controls an insurer may be deemed to be the insurer's audit committee for purposes of this Part at the election of the controlling person.](#)

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.50 Contents of Annual Audited Financial Report**

- a) The annual audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the report year in conformity with statutory accounting practices for preparation of the annual statement as described in Section 136 of the Code, Section 2-7 of the Health Maintenance Organization Act, [\[215 ILCS 125/2-7\]](#) Section 2007 of the Limited Health Service Organization Act, [\[215 ILCS 130/2007\]](#) or as otherwise permitted by the insurance regulatory authority of the insurer's state of domicile.
- b) The annual audited financial report shall include the following:
- 1) Report of the [independent certified public](#) accountant.
  - 2) Balance sheet reporting admitted assets, liabilities, capital and surplus or net worth.
  - 3) Statement of operations or statement of revenues and expenses and net worth.
  - 4) Statement of cash flows.
  - 5) Statement of changes in capital and surplus or net worth.
  - 6) Notes to financial statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual, pursuant to Section 136(1) of the Code, Section 2-7(a) of the Health Maintenance Organization Act and Section 2007(a) of the Limited Health Service Organization Act. The notes shall include a reconciliation with a written description of

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

differences, if any, between the annual audited financial report and the annual statement filed pursuant to Section 136 of the Code, Section 2-7 of the Health Maintenance Organization Act, or Section 2007 of the Limited Health Service Organization Act.

- 7) The financial statements included in the annual audited financial report shall be prepared in a format using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the Director and:
  - A) The financial statements shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an annual audited financial report, the comparative data may be omitted.)
  - B) Amounts may be rounded to the nearest thousand dollars.
- 8) Supplementary Data and Information. This shall include any additional clarifying information or data which the Director may require to be disclosed.
- 9) ~~In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by such companies with their domiciliary supervision authority duly audited by an independent chartered accountant. For such insurers, the letter required by Section 925.60 of this Part shall state that the accountant is aware of the requirements relating to the annual audited financial report filed with the Director pursuant to Section 925.40 and shall affirm that the opinion expressed is in conformity with such requirements.~~

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.60 Designation of Independent Certified Public Accountant**

- a) Each insurer required by this Part to file an annual audited financial report must, within 60 days after becoming subject to such requirement, register with the Director in writing the name and address of the independent certified public

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

accountant retained to conduct the annual audit set forth in this Part. Insurers not retaining an [independent certified public](#) accountant on the effective date of this Part shall register the name and address of their retained [independent certified public](#) accountant not less than 6 months before the date when the first audited financial report is to be filed.

- b) If ~~the independent certified publican~~ accountant, who was not the accountant for the immediately preceding filed annual audited financial report, is engaged to audit the insurer's financial statements, the insurer shall within 30 days after the date the [independent certified public](#) accountant is engaged notify the Director of this event. The insurer shall obtain a letter from the accountant and file a copy with the Director stating that the accountant is aware of the provisions of the Code and/or Health Maintenance Organization Act and/or the Limited Health Service Organization Act and the Rules and Regulations of the insurance regulatory authority of the state of domicile that relate to accounting and financial matters and affirming that the accountant will express its opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that insurance regulatory authority, specifying such exceptions as the accountant may believe appropriate.
- c) If an accountant who was the accountant for the immediately preceding filed annual audited financial report is dismissed or resigns, the insurer shall within 5 business days notify the Director of this event. The insurer shall also furnish the Director with a separate letter within 10 business days after the above notification stating whether in the 24 months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused the accountant to make reference to the subject matter of the disagreement in connection with the accountant's ~~opinion report~~. The disagreements required to be reported in response to this subsection include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this subsection are those that occur at the decisionmaking level, between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering the accountant's report. The insurer shall also in writing request such former accountant to furnish it a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which the accountant does

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

not agree; and the insurer shall furnish such responsive letter from the former accountant to the Director together with its own.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.70 Qualifications of Independent Certified Public Accountant**

- a) The Director shall not recognize any person or firm as a qualified independent certified public accountant if the person or firm:
- 1) Is not in good standing with the AICPA American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice or, for a Canadian or British company, that is not a chartered accountant; or
  - 2) Has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as indemnification) with respect to the audit of the insurer; or
  - 3) Has repeatedly failed to timely comply with the written requests of the Director's examiners for copies of the workpapers as required pursuant to Sections 925. 12045 and 925. 130420 of this Part.
- b) Except as otherwise provided in this Section, the Director shall recognize an independent certified public accountant as qualified as long as the accountant conforms to the standards of the profession, as contained in the Code of Professional Ethics of the AICPA American Institute of Certified Public Accountants or similar code.
- c) A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Article XIII½ of the Code [215 ILCS 5/Art. XIII½], the mediation or arbitration provisions shall operate at the option of the statutory successor.
- d) The requirements of this subsection (d) shall become effective for years beginning after December 31, 20094994.

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- 1) The lead (or coordinating) audit partner (having primary responsibility for the audit)~~No partner or other person responsible for rendering a report~~ may not act in that capacity for more than 57 consecutive years. The person shall be disqualified from acting~~Following any such period of service such person shall be disqualified from acting~~ in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of 5 consecutive~~2~~ years. An insurer may make application to the Director for relief from ~~this~~~~the above~~ rotation requirement on the basis of unusual circumstances. This application should be made at least 30 days before the end of the calendar year. The Director may consider the following factors in determining if the relief should be granted:
  - A~~1~~) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
  - B~~2~~) Premium volume of the insurer; or
  - C~~3~~) Number of jurisdictions in which the insurer transacts business.
- 2) The insurer shall file, with its annual statement filing, the approval for relief from subsection (d)(1) of this Section with the states that it is licensed in or doing business in and with the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.
- e) The Director shall not recognize as a qualified independent certified public accountant, nor accept any annual audited financial report prepared in whole or in part by any natural person who:
  - 1) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act (18 USC ~~Sections~~-1961-1968), or any dishonest conduct or practices under federal or state law;
  - 2) Has been found to have violated the insurance laws of this State with respect to any previous reports submitted under this Part; or
  - 3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this Part.

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- f) The Director, as provided in Section 401 of the Code ~~[215 ILCS 5/401]~~, may, as provided in Administrative Hearing Procedures (50 Ill. Adm. Code 2402), hold a hearing to determine whether an independent certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing an opinion on the financial statements in the annual audited financial report made pursuant to this Part and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this Part.
- g) Qualified Independent Certified Public Accountant
- 1) The Director shall not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report prepared in whole or in part by an accountant, who provides to an insurer, contemporaneously with the audit, the following non-audit services:
- A) Bookkeeping or other services related to the accounting records or financial statements of the insurer;
- B) Financial information systems design and implementation;
- C) Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;
- D) Actuarially-oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification (opinion) on an insurer's reserves if the following conditions have been met:
- i) Neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;



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in subsection (g) or that do not conflict with subsection (g)(2), only if the activity is approved in advance by the audit committee, in accordance with subsection (j).

- j) All auditing services and non-audit services provided to an insurer by the qualified independent certified public accountant of the insurer shall be preapproved by the audit committee. The preapproval requirement is waived with respect to non-audit services if the insurer is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity or:
- 1) The aggregate amount of all such non-audit services provided to the insurer constitutes not more than 5% of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the non-audit services are provided, or  
the services were not recognized by the insurer at the time of the engagement to be non-audit services; and
  - 2) The services are promptly brought to the attention of the audit committee and approved prior to the completion of the audit by the audit committee or by one or more members of the audit committee who are the members of the board of directors to whom authority to grant this approval has been delegated by the audit committee.
- k) The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapprovals required by subsection (j). The decisions of any member to whom this authority is delegated shall be presented to the full audit committee at each of its scheduled meetings.
- l) The Director shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due. This subsection shall only apply to partners and senior managers involved in the audit. An insurer may make application to the Director for relief from the requirement of this subsection on the basis of unusual circumstances.

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m) The insurer shall file, with its annual statement filing, the approval for relief from subsection (l) with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.80 Consolidated or Combined Audits**

- a) An insurer may make written application to the Director for approval to file a consolidated or combined annual audited financial report in lieu of separate annual audited financial reports if the insurer is part of a group of insurance companies which utilizes a pooling or 100% reinsurance agreement that affects the solvency and integrity of the insurer's reserves and ~~thesueh~~ insurer cedes all of its direct and assumed business to the pool. In ~~thesesueh~~ cases, a columnar consolidating or combining worksheet shall be bound into and filed with the report as follows:
- 1) Amounts shown on the consolidated or combined annual audited financial report shall be shown on the worksheet~~:-~~
  - 2) Amounts for each insurer subject to this Section shall be stated separately~~:-~~
  - 3) Noninsurance operations may be shown on the worksheet on a combined or individual basis~~:-~~
  - 4) Explanations of consolidating and eliminating entries shall be included~~:-~~ and
  - 5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers.
- b) The Director shall require any insurer to file separate annual audited financial reports although permission had previously been given to file on a consolidated or combined basis if the Director determines the reasons and/or circumstances given for approval of the consolidated audit, pursuant to subsection (a), no longer exist.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 925.90 Scope of Audit and Report of Independent Certified Public Accountant**

- a) Financial statements furnished pursuant to Section 925.50 of this Part shall be examined by an independent certified public accountant. The ~~audit examination~~ of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. In accordance with AU Section 319, Consideration of Internal Control in a Financial Statement Audit, AICPA Professional Standards, Volume 1, U.S. Auditing Standards – AICPA, Attestations Standards (as of July 7, 2007, Copyright 2007 by American Institute of Certified Public Accountants, Inc., New York NY 10036-8775) the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent required by AU 319, for those insurers required to file a Management's Report of Internal Control over Financial Reporting pursuant to Section 925.160 of this Part, the independent certified public accountant (as that term is defined in AU Section 120, Defining Professional Requirements in Statements on Auditing Standards, AICPA Professional Standards, Volume 1, U.S. Auditing Standards – AICPA, Attestations Standards (as of July 7, 2007, Copyright 2007 by American Institute of Certified Public Accountants, Inc., New York NY 10036-8775)). Statement on Auditing Standards (SAS) No. 102, Defining Professional Requirements in Statements on Auditing Standards, or its replacement should consider the most recently available report in planning and performing the audit of the statutory financial statements. Consideration should also be given to ~~such~~ other procedures illustrated in the Financial Condition Examiners' Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.
- b) Property and casualty insurers shall require the independent certified public accountant to subject the current "Schedule P – Part 1" (excluding those amounts related to bulk and IBNR reserves and claims counts) to the auditing procedures applied in the audit of the current statutory financial statements to determine whether Schedule P – Part 1 is fairly stated in all material respects in relation to the basic statutory financial statements taken as a whole. It is expected that the auditing procedures applied by the independent certified public accountant to the claim loss and loss adjustment expense data from which Schedule P – Part 1 is prepared would be applied to activity that occurred in the current calendar year (e.g., tests of payments on claims for all accident years that were paid during the current calendar year).

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- c) Life, accident, and health insurers shall require the independent certified public accountant to subject the information included in the "Supplemental Schedule of Assets and Liabilities" and exhibits of the Schedule thereof to the auditing procedure applied in the audit of the current statutory financial statements to determine whether thesueh information is fairly stated in all material respects in relation to the basic statutory financial statements taken as a whole and agrees to the insurer's annual statement filed with the Department.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.100 Notification of Adverse Financial Condition**

- a) The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to report, in writing within 5 business days, to the board of directors or its audit committee, any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the Director as of the balance sheet date currently under auditexamination, or of any other determination that the insurer does not meet the minimum capital and surplus requirements of the Code and the net worth requirements of the Health Maintenance Organization Act and the Limited Health Service Organization Act, as of that date.
- b) An insurer who has received a report pursuant to subsection (a)-above shall forward a copy of the report to the Director within 5 business days after receipt of thesueh report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the Director. If the independent certified public accountant fails to receive thesueh evidence within the required 5 business day period, the independent certified public accountant shall furnish to the Director a copy of the accountant's report within the next 5 business days.
- c) No independent certified public accountant shall be liable in any manner to any person for any statement made in connection with subsections (a) and (b)-above if thesueh statement is made in good faith in compliance with subsections (a) and (b)-above.
- d) If the accountant, subsequent to the date of the annual audited financial report filed pursuant to this Part, becomes aware of facts thatwhich might have affected the accountant's report, the Director notes the obligation of the accountant to take

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~~such~~ action as prescribed in AU Section 561, Subsequent Discovery of Facts Existing at the Date of the Auditor's Report, AICPA Professional Standards, Volume 1, U.S. Auditing Standards – AICPA, Attestations Standards (as of July 7, 2007, Copyright 2007 by American Institute of Certified Public Accountants, Inc., New York NY 10036-8775) ~~Volume 1, Section AU561 of the Professional Standards of the American Institute of Certified Public Accountants as of June 1, 2003, with no later amendments or editions.~~

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.110 Communication of Internal Control Related Matters Noted in an Audit Report on Internal Control**

- a) In addition to the annual audited financial report, each insurer shall furnish the Director with a written communication as to any unremediated material weaknesses in its internal control over financial reporting noted during the audit. The communication shall be ~~report~~ prepared by the accountant within 60 days after the filing of the annual audited financial report, and shall contain: ~~stating the accountant's evaluation of the accounting procedures of the insurer and the insurer's system of internal control, including any remedial action taken or proposed. The written report shall include a description of any significant deficiencies in the insurer's internal control structure noted by the accountant during the audit. SAS No. 60, Communication of Internal Control Structure Matters Noted in an Audit (AU Section 325 of the Professional Standards of the American Institute of Certified Public Accountants) requires an accountant to communicate significant deficiencies (known as "reportable conditions") noted during a financial statement audit to the appropriate parties within an entity. The written report shall be filed annually by the insurer with the Director, on or before June 1, along with the filing of the annual audited financial reports. The insurer is required to provide a description of remedial actions taken or proposed to correct significant deficiencies, if such actions are not described in the accountant's report.~~
- 1) A description of any unremediated material weaknesses (as the term material weakness is defined by AU Section 325, Communicating Internal Control Related Matters Identified in an Audit, AICPA Professional Standards, Volume 1, U.S. Auditing Standards – AICPA, Attestations Standards (as of July 7, 2007, Copyright 2007 by American Institute of Certified Public Accountants, Inc., New York NY 10036-8775), Statement

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on Auditing Standard 60, Communication of Internal Control Related Matters Noted in an Audit, or its replacement) as of December 31 immediately preceding (so as to coincide with the audited financial report discussed in Section 925.40(a) of this Part) in the insurer's internal control over financial reporting noted by the accountant during the course of the audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state.

- 2) The insurer is required to provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's communication.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.115 Accountant's Letter of Qualifications (Renumbered)**

(Source: Section 925.115 renumbered to Section 925.120 at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.120~~925.115~~ Accountant's Letter of Qualifications**

The accountant shall furnish the insurer, in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating that:

- a) The accountant is independent with respect to the insurer and conforms to the standards of the profession as contained in the AICPA Code of Conduct and Rules Code of Professional Ethics and pronouncements, ~~of the American Institute of Certified Public Accountants~~ or similar code.
- b) The background and experience in general, and the experience in audits of insurers, of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within this Part shall be construed as prohibiting the accountant from utilizing such staff as deemed appropriate ~~when that~~where use is consistent with the standards prescribed by generally accepted auditing standards.
- c) The accountant understands the annual audited financial report and the accountant's opinion on that report~~thereon~~ will be filed in compliance with this Part and that the Director will be relying on this information in the monitoring and

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regulation of the financial position of insurers.

- d) The accountant consents to the requirements of Section 925.130+20 of this Part and ~~that the accountant~~ consents and agrees to make available to the Director, the Director's designee or the Director's appointed agent the workpapers, as defined in Section 925.130+20, in hard copy or electronic format.
- e) A representation that the~~The~~ accountant is properly licensed by an appropriate state licensing authority and is a member in good standing of the AICPA~~American Institute of Certified Public Accountants~~.
- f) A representation that the~~The~~ accountant is in compliance with the requirements of Section 925.70 of this Part.

(Source: Section 925.120 renumbered from Section 925.115 and amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.130~~925.120~~ Definition, Availability and Maintenance of Independent Certified Public Accountant Workpapers~~Definition, Availability and Maintenance of Accountant Workpapers~~**

- a) Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the accountant's audit examination of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of its audit of the financial statements of an insurer and that which support the accountant's opinion ~~thereof~~.
- b) Every insurer required to file an annual audited financial report pursuant to this Part shall require the accountant to make available for review by the Director's examiners all workpapers prepared in the conduct of the accountant's audit examination and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the offices of the Director, or at any other reasonable place designated by the Director. The insurer shall require that the accountant retain the audit workpapers and communications until the Director has filed a report on examination covering the period of the

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audit, but no longer than 7 years from the date of the audit report.

- c) In the conduct of the aforementioned periodic review by the Director's examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the Director's examiners. ~~The Such~~ review by the Director's examiners shall be considered an investigation and all workpapers and communications obtained during the course of ~~thesueh~~ investigation shall be afforded the same confidentiality as other examination workpapers generated by the Director's examiners, pursuant to Section 132.5(e) and (f) of the Code ~~[215 ILCS 5/132.5(e) and (f)]~~.

(Source: Old Section 925.130 repealed at 19 Ill. Reg. 12229, effective August 14, 1995 and new Section 925.130 renumbered from Section 925.120 and amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 925.140 Requirements for Audit Committees Exemptions

This Section shall not apply to foreign or alien insurers licensed in this State or an insurer that is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity.

- a) The audit committee shall be directly responsible for the appointment, compensation and oversight of the work of any accountant (including resolution of disagreements between management and the accountant regarding financial reporting) for the purpose of preparing or issuing the audited financial report or related work pursuant to this Part. Each accountant shall report directly to the audit committee.
- b) Each member of the audit committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to both subsection (e) and the definition of audit committee found in Section 925.30.
- c) In order to be considered independent for purposes of this Section, a member of the audit committee may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary of the entity. However, if law requires board participation by otherwise non-independent members, that law shall prevail and

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the members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are officer's or employee's of the insurer or one of its affiliates.

- d) If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the State, may remain an audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to be no longer independent.
- e) To exercise the election of the controlling person to designate the audit committee for purposes of this regulation, the ultimate controlling person shall provide written notice to the domiciliary commissioners of the affected insurers. Notification shall be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the Director by the insurer, which shall include a description of the basis for the change. The election shall remain in effect for perpetuity, until rescinded.
- f) Report to Audit Committee
  - 1) The audit committee shall require the accountant that performs for an insurer any audit required by this Part to timely report to the audit committee in accordance with the requirements of AU Section 380A, Communication With Audit Committees, AICPA Professional Standards, Volume 1, U.S. Auditing Standards – AICPA, Attestations Standards (as of July 7, 2007, Copyright 2007 by American Institute of Certified Public Accountants, Inc., New York NY 10036-8775), or its replacement, including:
    - A) All significant accounting policies and material permitted practices;
    - B) All material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and

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- C) Other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.
- 2) If an insurer is a member of an insurance holding company system, the reports required by subsection (f)(1)(A) may be provided to the audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the audit committee.
- g) The proportion of independent audit committee members shall meet or exceed the following criteria:

<u>Prior Calendar Year Direct Written and Assumed Premiums</u>		
<u>\$0 - \$300,000,000</u>	<u>Over \$300,000,000 - \$500,000,000</u>	<u>Over \$500,000,000</u>
<u>No minimum requirements. See also Note A and B.</u>	<u>Majority (50% or more) of members shall be independent. See also Note A and B.</u>	<u>Supermajority of members (75% or more) shall be independent. See also Note A.</u>

Note A: The Director has authority afforded by State law to require the entity's board to enact improvements to the independence of the audit committee membership if the insurer is in a RBC action level event, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer.

Note B: All insurers with less than \$500,000,000 in prior year direct written and assumed premiums are encouraged to structure their audit committees with at least a supermajority of independent audit committee members.

Note C: Prior calendar year direct written and assumed premiums shall be the combined total of direct premiums and assumed premiums from non-affiliates for the reporting entities.

- h) An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood

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Program, less than \$500,000,000 may make application to the Director for a waiver from the requirements of this Section based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from this Section with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(Source: Old Section 925.140 renumbered to Section 925.170 and new Section 925.140 added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.145 Penalties (Renumbered)**

(Source: Section 925.145 renumbered to Section 925.190 at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.150 Conduct of Insurer in Connection with the Preparation of Required Reports and Documents**  
**Severability Provision**

- a) No director or officer of an insurer shall, directly or indirectly:
- 1) Make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review or communication required under this Part; or
  - 2) Omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review or communication required under this Part.
- b) No officer or director of an insurer, or any other person acting under the direction of that person, shall directly or indirectly take any action to coerce, manipulate, mislead or fraudulently influence any accountant engaged in the performance of an audit pursuant to this Part if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.
- c) For purposes of subsection (b) of this Section, actions that, "if successful, could result in rendering the insurer's financial statements materially misleading"

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include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead or fraudulently influence an accountant:

- 1) To issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances (due to material violations of statutory accounting principles prescribed by the Director, generally accepted auditing standards, or other professional or regulatory standards);
- 2) Not to perform audit, review or other procedures required by generally accepted auditing standards or other professional standards;
- 3) Not to withdraw an issued report; or
- 4) Not to communicate matters to an insurer's audit committee.

(Source: Old Section 925.150 renumbered to Section 925.200 and new Section 925.150 added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.160 Management's Report of Internal Control over Financial Reporting**

- a) Every insurer required to file an audited financial report pursuant to this Part that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of \$500,000,000 or more shall prepare a report of the insurer's or group of insurers' internal control over financial reporting, as these terms are defined in Section 925.30. The report shall be filed with the Director along with the Communication of Internal Control Related Matters Noted in an Audit described under Section 925.110. Management's Report of Internal Control over Financial Reporting shall be as of December 31 immediately preceding.
- b) Notwithstanding the premium threshold in subsection (a), the Director may require an insurer to file a Management's Report of Internal Control over Financial Reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition as referenced in Section 186.1 of the Code.
- c) An insurer or a group of insurers that is directly subject to Section 404, is part of a holding company system whose parent is directly subject to Section 404, is not

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directly subject to Section 404 but is a SOX Compliant Entity, or is a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX Compliant Entity may file its or its parent's Section 404 Report and an addendum in satisfaction of this requirement provided that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in Section 925.50(b)(2) through (8)) were included in the scope of the Section 404 Report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in Section 925.50(b)(2) through (8)) excluded from the Section 404 Report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 Report, the insurer or group of insurers may either file a Section 16 Report or the Section 404 Report and a Section 925.160 Report for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 Report.

- d) Management's Report of Internal Control over Financial Reporting shall include:
- 1) A statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;
  - 2) A statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;
  - 3) A statement that briefly describes the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting;
  - 4) A statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

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- 5) Disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding. Management is not permitted to conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weaknesses in its internal control over financial reporting.
  - 6) A statement regarding the inherent limitations of internal control systems; and
  - 7) Signatures of the chief executive officer and the chief financial officer (or equivalent position/title).
- e) Management shall document and make available upon financial condition examination the basis upon which its assertions, required in subsection (d), are made. Management may base its assertions, in part, upon its review, monitoring and testing of internal controls undertaken in the normal course of its activities.
- 1) Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost effective manner and, as such, may include assembly of or reference to existing documentation.
  - 2) Management's Report of Internal Control over Financial Reporting, required by subsection (a), and any documentation provided in support of that report during the course of a financial condition examination, will be kept confidential by the Division.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.170925.140 Exemptions**

- a) Upon written application of any domestic insurer, the Director may grant an exemption from compliance with any and all provisions of this Part if the Director finds, upon review of the application, that compliance with this Part would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time, and from time to time, for a specified period or

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periods. Within 10 days from a denial of an insurer's written request for an exemption from this Part, ~~the such~~ insurer may request in writing a hearing on its application for an exemption. ~~The Such~~ hearing shall be held in accordance with the rules of the ~~Division Illinois Department of Insurance~~ pertaining to administrative hearing procedures (50 Ill. Adm. Code 2402).

- b) Domestic insurers retaining a certified public accountant on the effective date of this regulation who qualify as independent shall comply with this regulation for the year ending December 31, 2010 and each year thereafter, unless the Director permits otherwise.
- c) Domestic insurers not retaining a certified public accountant on the effective date of this regulation who qualifies as independent may meet the following schedule for compliance unless the Director permits otherwise.
  - 1) As of December 31, 2010, file with the Director an audited financial report.
  - 2) For the year ending December 31, 2010 and each year thereafter, these insurers shall file with the Director all reports and communication required by this regulation.
- d) Foreign insurers shall comply with this regulation for the year ending December 31, 2010, and each year thereafter, unless the Director permits otherwise.
- e) The requirements of Section 925.70(d) of this Part shall be in effect for audits of the year beginning January 1, 2010 and thereafter.
- f) The requirements of Section 925.140 of this Part are to be in effect January 1, 2010. An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members (as opposed to a supermajority) because the total written and assumed premium is below the threshold, and subsequently becomes subject to one of the independence requirements due to changes in premium, shall have 1 year following the year the threshold is exceeded (but not earlier than January 1, 2010) to comply with the independence requirements. Likewise, an insurer that becomes subject to one of the independence requirements as a result of a business combination shall have 1 calendar year following the date of acquisition or combination to comply with the independence requirements.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- g) The requirements of this Section and the following modified Sections are effective beginning with the reporting period ending December 31, 2010 and each year thereafter: Sections 925.50(b)(7)(B), (8) and (9); 925.60(b); 925.70(a)(3); 925.80(b); 925.90(b) and (c); and 925.190. An insurer or group of insurers that is not required to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements shall have 2 years following the year the threshold is exceeded (but not earlier than December 31, 2010) to file a report. Likewise, an insurer acquired in a business combination shall have 2 calendar years following the date of acquisition or combination to comply with the reporting requirements.
- hb) Foreign and alien insurers, except those insurers licensed under the Health Maintenance Organization Act and the Limited Health Service Organization Act, shall be exempt from this Part unless the Director makes a specific finding that compliance is necessary for the Director to carry out statutory responsibilities.

(Source: Section 925.170 renumbered from Section 925.140 and amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 925.180 Canadian and British Companies**

- a) In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by those companies with their supervision authority, duly audited by an independent chartered accountant.
- b) For these insurers, the letter required in Section 925.60 shall state that the accountant is aware of the requirements relating to the annual audited financial report filed with the Director pursuant to Section 925.40 and shall affirm that the opinion expressed is in conformity with those requirements.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section ~~925.190~~925.145 Penalties**

Failure of a company to meet any provisions of this Part shall subject the company to penalty provisions of Sections ~~139~~~~132.4(b)~~ and 403A of the Code ~~[215 ILCS 5/132.4(b) and 403A]~~, or other such action as the Director may deem necessary.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

(Source: Section 925.190 renumbered from Section 925.145 and amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section ~~925.200~~925.150 Severability Provision**

If any Section or portion of a Section of this Part or the applicability of that Section or portion of a Section thereof to any person or circumstance is held invalid by a court, the remainder of the Part or the applicability of thesueh provision to other persons or circumstances shall not be affected by that determination of invaliditythereby. This Part is effective July 21, 1975.

(Source: Section 925.200 renumbered from Section 925.150 and amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

**Section 925.EXHIBIT A CPA Letter of Representation**

Upon completion of the review by the Department's examiners, the accountant shall submit a "[CPA Letter of Representation](#)" in this format.

## CPA LETTER OF REPRESENTATION

Date: \_\_\_\_\_

Attention: Illinois Department of [Financial and Professional Regulation](#)~~Insurance~~  
[Division of Insurance](#)  
[Financial Examination Section](#)  
Attn: (Examiner-in-~~Charge~~~~charge~~)  
[James R. Thompson Center](#)  
100 West Randolph, Suite ~~9-3015-570~~  
Chicago, Illinois 60601  
(312) 814-2423

Re: Examination of (Insurance Company Name)  
As of December 31, 20\_\_

Dear (Examiner-in-~~Charge~~~~charge~~)

(CPA Firm) confirms the following information related to your review of our 20\_\_ audit workpapers for (Insurance Company Name).

(CPA Firm) have made available for review to the Examiners of the ~~Division~~~~Illinois Department~~ of Insurance all workpapers prepared during the course of the audit of the financial position of the insurer, and the results of its operations, cash flows and changes in capital and surplus of (Insurance Company Name) for the period ending December 31, 20\_\_. Workpapers include, but are not limited to, all electronic and paper schedules, analyses, reconciliations, memorandums (including emails), permanent files, budgets, progress reports, engagement letters, audit programs, planning documents, internal audit reports, letters of representation, legal liability correspondence, letters of confirmation, summaries of audit differences, and other supporting audit evidence.

The photocopies of workpapers that were requested by the Examiners of the ~~Division~~~~Illinois Department of Insurance~~ are true and complete copies of ~~those~~~~such~~ workpapers.

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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Sincerely,

(CPA Partner)

(CPA Firm)

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Number: 130.605                      Proposed Action: Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-25
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Section 130.605 to add a fly-away aircraft exemption created by Public Act 95-304 and makes a technical correction to the numbering provisions of the exemptions.
- 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? Yes
 

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
130.120	Amendment	32 Ill. Reg. 4155; March 21, 2008
130.330	Amendment	32 Ill. Reg. 8561; June 13, 2008
130.2145	Amendment	32 Ill. Reg. 15763; September 26, 2008
130.325	Amendment	32 Ill. Reg. 16057; October 3, 2008
130.331	Amendment	32 Ill. Reg. 16057; October 3, 2008
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Debra M. Boggess

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: Sellers and purchasers of aircraft
  - 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 2008

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

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 130  
RETAILERS' OCCUPATION TAX

## SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

## SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

## SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines
130.335	Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

	Devices
130.340	Rolling Stock
130.341	Commercial Distribution Fee Sales Tax Exemption
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351	Aggregate Manufacturing

## SUBPART D: GROSS RECEIPTS

Section	
130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges – Penalties – Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

## SUBPART E: RETURNS

Section	
130.501	Monthly Tax Returns – When Due – Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
130.560	Verification of Returns

## SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
130.610	Sales of Property Originating in Other States

## SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710	Procedure When Security Must be Forfeited
130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
130.735	Certificate Not Transferable
130.740	Certificate Required For Mobile Vending Units
130.745	Revocation of Certificate

## SUBPART H: BOOKS AND RECORDS

Section	
130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records
130.820	Preservation of Books During Pendency of Assessment Proceedings
130.825	Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

SUBPART I: PENALTIES AND INTEREST

Section

- 130.901 Civil Penalties
- 130.905 Interest
- 130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section

- 130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section

- 130.1101 Definition of Federal Area
- 130.1105 When Deliveries on Federal Areas Are Taxable
- 130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section

- 130.1201 General Information
- 130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

- 130.1301 When Lessee of Premises Must File Return for Leased Department
- 130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
- 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

## DEPARTMENT OF REVENUE

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- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for  
Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

## SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

## Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON  
SELLING OUT OR DISCONTINUING BUSINESS

## Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

## SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

## Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

## SUBPART R: POWER OF ATTORNEY

## Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

## SUBPART S: SPECIFIC APPLICATIONS

## Section

- 130.1901 Addition Agents to Plating Baths
- 130.1905 Agricultural Producers

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

- 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
- 130.1915 Auctioneers and Agents
- 130.1920 Barbers and Beauty Shop Operators
- 130.1925 Blacksmiths
- 130.1930 Chiropodists, Osteopaths and Chiropractors
- 130.1935 Computer Software
- 130.1940 Construction Contractors and Real Estate Developers
- 130.1945 Co-operative Associations
- 130.1950 Dentists
- 130.1951 Enterprise Zones
- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1953 Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
- 130.1955 Farm Chemicals
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
- 130.1970 Hatcheries
- 130.1971 Sellers of Pets and the Like
- 130.1975 Operators of Games of Chance and Their Suppliers
- 130.1980 Optometrists and Opticians
- 130.1985 Pawnbrokers
- 130.1990 Peddlers, Hawkers and Itinerant Vendors
- 130.1995 Personalizing Tangible Personal Property
- 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
- 130.2004 Sales to Nonprofit Arts or Cultural Organizations
- 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
- 130.2006 Sales by Teacher-Sponsored Student Organizations
- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
- 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
- 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
- 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
- 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property –

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	Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps and Discount Coupons
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians

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130.2170 Warehousemen

## SUBPART T: DIRECT PAYMENT PROGRAM

## Section

130.2500	Direct Payment Program
130.2505	Qualifying Transactions, Non-transferability of Permit
130.2510	Permit Holder's Payment of Tax
130.2515	Application for Permit
130.2520	Qualification Process and Requirements
130.2525	Application Review
130.2530	Recordkeeping Requirements
130.2535	Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Card

130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987;

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003,

## DEPARTMENT OF REVENUE

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for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART F: INTERSTATE COMMERCE

**Section 130.605 Sales of Property Originating in Illinois**

- a) Where tangible personal property is located in this State at the time of its sale (or is subsequently produced in Illinois), and then delivered in Illinois to the purchaser, the seller is taxable if the sale is at retail.
  - 1) The sale is not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in this State.
  - 2) This is so notwithstanding the fact that the purchaser may, after receiving physical possession of the property in this State, transport or send the property out of the State for use outside the State or for use in the conduct of interstate commerce.
  - 3) The place at which the contract of sale or contract to sell is negotiated and executed and the place at which title to the property passes to the purchaser are immaterial. The place at which the purchaser resides is also immaterial. It likewise makes no difference that the purchaser is a carrier when that happens to be the case.

## DEPARTMENT OF REVENUE

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- b) There are three exceptions to the rule that the sale is not deemed to be a sale in interstate commerce if the purchaser or his representative receives physical possession of the property in Illinois.
- 1) Except as otherwise provided in subsection (b)(1)(C), the tax is not imposed upon the sale of a motor vehicle in this State *even though the motor vehicle is delivered in this State*, if all of the following conditions are met: *the motor vehicle is sold to a nonresident; the motor vehicle is not to be titled in this State; and either a drive-away permit for purposes of transporting the motor vehicle to a destination outside of Illinois is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or the nonresident purchaser has non-Illinois vehicle registration plates to transfer to the motor vehicle upon transporting the vehicle outside of Illinois. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State.* [35 ILCS 120/2-5(25)]
- A) Documentation of nonresidency. The exemption under subsection (b)(1) is available only to nonresidents. A vehicle purchased by an Illinois resident is not eligible for the exemption (even if the purchaser is only a part-time Illinois resident or has dual residency in both Illinois and another state, and, in the case of more than one purchaser, even if only one of the purchasers is an Illinois resident). Effective July 1, 2008, if a retailer claims the exemption under subsection (b)(1), the retailer must keep evidence that the purchaser is not a resident of Illinois, along with the records related to the sale (e.g., in the deal jacket).
- i) When the purchaser is a natural person, the best evidence of nonresidence is a non-Illinois driver's license. Retention of a copy of the purchaser's permanent non-Illinois driver's license in the records related to the sale is prima facie evidence that the purchaser is a nonresident eligible for the exemption under this subsection (b)(1). In addition, the retailer must also obtain and keep in the records related to the sale a certification from the purchaser in substantially the following form:

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"I, (purchaser), under applicable penalties, including penalties for perjury and fraud, state that I am not an Illinois resident. I understand that if I am a resident of Illinois or use the motor vehicle in Illinois for 30 or more days in a calendar year, I am also liable for tax, penalty and interest on this purchase."

- ii) When the purchaser is a natural person, failure to keep a copy of the purchaser's non-Illinois driver's license or the presence of a copy of the purchaser's Illinois driver's license in the records related to the sale creates a rebuttable presumption that the purchaser is an Illinois resident ineligible for the exemption under this subsection (b)(1). To rebut this presumption, the retailer must keep evidence of the nonresidency of the purchaser in the records related to the sale, such as a voter registration card listing a non-Illinois address, a copy of a purchase contract or lease agreement for a new residence outside of Illinois, a copy of a tax return from another state that declares residency in that other state, a credit report listing the primary address as out-of-state, property tax records claiming a homestead exemption for an out-of-state residence, or any other documentation that clearly shows that the purchaser is not an Illinois resident. In addition, the retailer must also obtain and keep in the records related to the sale a certification from the purchaser in substantially the following form:

"I, (purchaser), under applicable penalties, including penalties for perjury and fraud, state that I am not an Illinois resident. I understand that if I am a resident of Illinois or use the motor vehicle in Illinois for 30 or more days in a calendar year, I am also liable for tax, penalty and interest on this purchase."

- iii) When the purchaser is not a natural person (e.g., corporation, partnership, limited liability company, trust, etc.), then the purchaser shall be deemed a resident of the state or foreign country under whose laws the purchaser

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was incorporated, created or organized, as well as the state or foreign country of the purchaser's commercial domicile, if different. When the purchaser is a grantor trust or other entity that claims it has no state or foreign country of incorporation, creation, organization and commercial domicile, then the purchaser's state or foreign country of residence shall be deemed to be the place of residency of the principal user of the vehicle and a copy of the user's non-Illinois driver's license or other evidence of non-Illinois residency must be kept by the retailer in the records related to the sale. When the purchaser is not a natural person, the retailer must obtain and keep in the records related to the sale a certificate from the purchaser that states substantially the following:

"(Purchaser) states, under applicable penalties, including penalties for perjury and fraud, that it is a (corporation, partnership, LLC, trust, etc.), incorporated, organized or created under the laws of (state or foreign country) and has its commercial domicile in (state or foreign country), or alternatively that it has no state or foreign country of incorporation, creation, organization and commercial domicile, but the principal user's state or foreign country of residence is (state). The undersigned has authority to sign this certification on behalf of the purchaser, and understands that in doing so, if the purchaser is a resident of Illinois or uses the motor vehicle in Illinois for 30 or more days in a calendar year, it will be liable for tax, penalty and interest on this purchase."

- iv) If the retailer meets the requirements of subsection (b)(1)(A)(i), (ii) or (iii) to document the exemption, then, absent fraud, the Department shall pursue any claim that the exemption does not apply solely against the vehicle purchaser. If, however, the retailer does not meet the requirements of subsection (b)(1)(A)(i), (ii) or (iii) to document the exemption, then the exemption claimed by the retailer shall be disallowed subject to further review by the Department.

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- B) When the motor vehicle is purchased for lease and delivery to a lessee, the provisions of subsection (b)(1) shall apply to the lessee as if the lessee is the purchaser of the motor vehicle.
- C) The exemption under this subsection (b)(1) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under the Retailers' Occupation Tax Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under the Retailers' Occupation Tax Act. (See 35 ILCS 120/2-5(25-5).)
- D) For purposes of this subsection (b)(1), the term "motor vehicle" does not include (list not exhaustive):
- i) "watercraft" or "personal watercraft" as defined in the Boat Registration and Safety Act [625 ILCS 45] or any boat equipped with an inboard motor, regardless of whether the watercraft, personal watercraft or boat is sold individually or included with the sale of a trailer. If the watercraft, personal watercraft or boat is included with the sale of a trailer, the trailer may be an exempt "motor vehicle" under this subsection (b)(1), but the watercraft, personal watercraft or boat is not an exempt motor vehicle and tax is still owed on it. If the two items are sold together for one non-itemized price, and the trailer is exempt under this subsection (b)(1), only the gross receipts representing the selling price of the trailer are exempt. Please note that Section 130.540 requires separate transaction returns to be filed with the Department for each item of property sold by the retailer that is required to be titled or registered with an agency of Illinois government;

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- ii) "all-terrain vehicles" as defined in Section 1-101.8 of the Illinois Vehicle Code;
- iii) "motorcycles", as defined in Section 1-147 of the Illinois Vehicle Code, that are not eligible for vehicle registration because they are not properly manufactured or equipped for general highway use;
- iv) "motor driven cycles", as defined in Section 1-145.001 of the Illinois Vehicle Code, that are not eligible for vehicle registration because they are not properly manufactured or equipped for general highway use;
- v) "off-highway motorcycles" as defined in Section 1-153.1 of the Illinois Vehicle Code; or
- vi) "snowmobiles" as defined in Section 1-2.15 of the Snowmobile Registration and Safety Act [625 ILCS 40/1-2.15].

2) *Beginning July 1, 2007, the Retailers' Occupation Tax is not imposed on the sale of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act [620 ILCS 5/3], if all of the following three conditions are met:*

- A) *the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*
- B) *the aircraft is not based or registered in this State after the sale of the aircraft; and*
- C) *the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form prescribed by the Department, certifying that the requirements of this subsection (b)(2) are met. The certificate must also include the name and address of the*

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*purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require. [35 ILCS 120/2-5(25-7)] (See Section 130.120.)*

D) For purposes of this subsection (b)(2):

i) *"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.*

ii) *"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State. [35 ILCS 120/2-5(25-7)]*

32) The seller does not incur Retailers' Occupation Tax liability with respect to *the proceeds from the sale of an item of tangible personal property to a common carrier by rail or motor that receives physical possession of property in Illinois and that transports the property, or shares with another common carrier in transporting the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois. [35 ILCS 120/2-5(17)]*~~3~~ The exception for sales to common carriers by rail or motor, which is described in subsection (b)(~~32~~), is also applicable to local occupation taxes administered by the Department.

- c) The tax does not extend to gross receipts from sales in which the seller is obligated, under the terms of his or her agreement with the purchaser, to make physical delivery of the goods from a point in this State to a point outside this State, not to be returned to a point within this State, provided that the delivery is actually made.
- d) Nor does the tax apply to gross receipts from sales in which the seller, by carrier (when the carrier is not also the purchaser) or by mail, under the terms of his or

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her agreement with the purchaser, delivers the goods from a point in this State to a point outside this State not to be returned to a point within this State. The fact that the purchaser actually arranges for the common carrier or pays the carrier that effects delivery does not destroy the exemption. However, it is critical that the seller is shown as the consignor or shipper on the bill of lading. If the purchaser is shown as either the consignor or the shipper, the exemption will not apply.

- e) The place at which title to the property passes to the purchaser is immaterial. The place at which the contract of sale or contract to sell is negotiated and executed and the place at which the purchaser resides are also immaterial. Sales of the type described in subsections (c) and (d) are deemed to be within the protection of the Commerce Clause of the Constitution of the United States.
- f) To establish that the gross receipts from any given sale are exempt because the tangible personal property is delivered by the seller from a point within this State to a point outside this State under the terms of an agreement with the purchaser, the seller will be required to retain in his or her records, to support deductions taken on his or her tax returns proof that satisfies the Department that there was an agreement and a bona fide delivery outside this State of the property that is sold. The most acceptable proof of this fact will be:
  - 1) If shipped by common carrier, a waybill or bill of lading requiring delivery outside this State;
  - 2) if sent by mail, an authorized receipt from the United States Post Office department for articles sent by registered mail, parcel post, ordinary mail or otherwise, showing the name of the addressee, the point outside Illinois to which the property is mailed and the date of the mailing; if the receipt does not comply with these requirements, other supporting evidence will be required;
  - 3) if sent by seller's own transportation equipment, a trip sheet signed by the person making delivery for the seller and showing the name, address and signature of the person to whom the goods were delivered outside this State; or, in lieu thereof, an affidavit signed by the purchaser or his or her representative, showing the name and address of the seller, the name and address of the purchaser and the time and place of the delivery outside Illinois by the seller; together with other supporting data as required by Section 130.810 of this Part and by Section 7 of the Act.

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- g) Retailers who ship property to freight forwarders who take possession of the property in Illinois and ship the property to foreign countries, not to be returned to the United States, are making exempt sales in foreign commerce and do not incur Retailers' Occupation Tax liability on the gross receipts from those sales. However, there is no exemption for property delivered in Illinois to foreign vessels. If foreign vessels purchase items of tangible personal property from Illinois retailers and have those items delivered to the vessels in an Illinois port, the sale is made in Illinois, the purchaser takes possession of the items in Illinois, and therefore, the sale is taxable.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of Part: Weights and Measures Act
- 2) Code Citation: 8 Ill. Adm. Code 600
- 3) Section Number: 600.770                      Adopted Action:  
New Section
- 4) Statutory Authority: Weights and Measures Act [225 ILCS 470]
- 5) Effective Date of Amendments: November 1, 2008
- 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) Date Notice of Proposal Published in Illinois Register: July 18, 2008; 32 Ill. Reg. 10670
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: In the second line of the introductory text in Section 600.770 "for purposes of this Subpart," was added after "Act." All nonsubstantive technical changes recommended by JCAR were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The rulemaking will define and provide enforcement for the Maintenance Requirement contained in the General Code of the National Institute of Standards and Technology's Handbook 44 which is adopted by reference in the Weights and Measures Act. This rulemaking will have no effect on municipalities or not-for-profit corporations. The rule will only affect small businesses that do not properly maintain their weighing and measuring devices.

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The Bureau is seeking to provide clarification to the maintenance requirement contained in the General Code of NIST Handbook 44. The theory of tolerances is that the permissible errors are small enough that they do not cause serious injury to buyer or seller but not so small as to increase cost of manufacturing the equipment. Tolerances are intended as accuracy criteria for regulatory officials not for businesses to use to their advantage. Maintenance requirement states that equipment is not properly maintained if error is predominantly in favor of business. The overall goal would be to obtain compliance so that all devices would be properly maintained and adjusted as close as practicable to zero value.

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

Linda Rhodes  
Illinois Department of Agriculture  
P. O. Box 19281, State Fairgrounds  
Springfield, Illinois 62794-9281

Telephone: 217/785-5713  
Facsimile: 217/785-4505

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

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER p: WEIGHTS AND MEASURES

PART 600  
WEIGHTS AND MEASURES ACT

SUBPART A: PACKAGING AND LABELING

Section

- 600.1 National Institute of Standards and Technology Handbook 130
- 600.10 Definitions (Repealed)
- 600.20 Application (Repealed)
- 600.30 Identity (Repealed)
- 600.40 Declaration of Identity: Nonconsumer Package (Repealed)
- 600.50 Declaration of Responsibility: Consumer and Nonconsumer Packages (Repealed)
- 600.60 Declaration of Quantity: Consumer Packages (Repealed)
- 600.70 Declaration of Quantity: Nonconsumer Packages (Repealed)
- 600.80 Prominence and Placement: Consumer Packages (Repealed)
- 600.90 Prominence and Placement: Nonconsumer Package (Repealed)
- 600.100 Requirements: Specific Consumer Commodities, Packages, Containers (Repealed)
- 600.110 Exemptions (Repealed)
- 600.120 Variations to be Allowed (Repealed)
- 600.130 Standards of Fill (Repealed)
- 600.140 Wholesale and Retail Exemption
- 600.150 Revocation of Conflicting Regulations (Repealed)
- 600.160 Tables: Weights and Measures Standards for Illinois

SUBPART B: ROOFING AND ROOFING MATERIALS

Section

- 600.250 Roofing and Roofing Materials Shall Be Sold Either by the "Square" or by the "Square Yard." (Repealed)

SUBPART C: WEIGHING AND MEASURING DEVICES:  
METERS – SCALES – FEES

Section

## DEPARTMENT OF AGRICULTURE

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600.300	Vehicle Scales Regulation
600.310	Fees
600.320	Scales Used for the Enforcement of Highway Weight Laws
600.330	National Institute of Standards and Technology Handbook 44

## SUBPART D: MOISTURE METER TESTING

Section	
600.350	General (Repealed)
600.360	Testing and Inspection (Repealed)
600.370	Rejected Moisture Testing Devices (Repealed)
600.380	Use of Moisture Measuring Devices (Repealed)

SUBPART E: REGISTRATION OF SERVICE AGENCIES, SERVICEMEN,  
AND SPECIAL SEALERS FOR COMMERCIAL  
WEIGHING AND MEASURING DEVICES

Section	
600.450	Policy (Repealed)
600.460	Definitions (Repealed)
600.470	Certificate of Registration (Repealed)
600.480	Types of Certificates (Repealed)
600.490	Examinations (Repealed)
600.500	Exemptions (Repealed)
600.510	Registration Fee (Repealed)
600.520	Reports (Repealed)
600.530	Bonds (Repealed)
600.540	Standards and Testing Equipment (Repealed)
600.550	Revocation of Certificate of Registration (Repealed)
600.560	Publication of Lists (Repealed)

## SUBPART F: LIQUID PETROLEUM MEASURING DEVICES

Section	
600.650	Use of Gasoline Pumps Which Are Not Capable of Computing the Prices Which Exceed 99.9¢ Per Gallon (Repealed)
600.660	Retail Liquid Petroleum Pumps Accurately Marked: Liters or Gallons
600.670	System Used to Sell Petroleum Product
600.680	Unit Price Per Gallon Displayed (Repealed)

## DEPARTMENT OF AGRICULTURE

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600.690	Price of Gasoline (Repealed)
600.700	Unit Price Indicator: Set at One-Half Total Selling Price (Repealed)
600.710	Decals or Stickers Affixed to the Pump Face (Repealed)
600.720	Information Sign Indicating Half Gallon Pricing of Gasoline (Repealed)
600.730	Conversion Kits or Replacement Pumps: Deadline (Repealed)
600.740	Three-Wheel Computers Prohibited
600.750	One-Half Gallon Pricing Applicable to All Metering Pumps at Facility (Repealed)
600.760	Stop Use Order; Hearing
<a href="#">600.770</a>	<a href="#">Maintenance of Equipment</a>

SUBPART G: ADVERTISEMENT OF THE PRICE OF LIQUID  
PETROLEUM PRODUCTS

## Section

600.800	Price Per Gallon or Liter in Advertisement
600.810	Height and Width of Numbers
600.820	Advertised Price Complete
600.830	Advertising Other Commodities; Misleading Advertising Prohibited
600.840	Product Identity and Type of Service
600.850	Advertisement of Price Not Required Except on Pump
600.860	Stop Use Order; Hearing
600.TABLE A	Minimum Height of Numbers and Letters (Repealed)
600.TABLE B	Standard Weight Per Bushel for Agricultural Commodities
600.TABLE C	Illinois Standard Weights and Measures
600.TABLE D	Equivalents: Cubic Inches in U.S. Standard Capacity Measures
600.TABLE E	Weights of Coal Per Cubic Foot
600.TABLE F	Equivalents to be used by Seller in Transposing Weights
600.TABLE G	Measurement of Surfaces and Volumes

AUTHORITY: Implementing and authorized by Section 8 of the Weights and Measures Act [225 ILCS 470/8].

SOURCE: Rules and Regulations Relating to the Weights and Measures Act, filed December 17, 1969, effective January 1, 1970; amended November 5, 1971, effective November 15, 1971; amended August 26, 1975, effective September 4, 1975; amended March 22, 1976, effective April 1, 1976; amended at 3 Ill. Reg. 45, p. 72, effective October 29, 1979; amended at 3 Ill. Reg. 45, p. 81, effective January 1, 1980; codified at 5 Ill. Reg. 10562; amended at 12 Ill. Reg. 8306, effective May 3, 1988; amended at 12 Ill. Reg. 15524, effective September 20, 1988;

## DEPARTMENT OF AGRICULTURE

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emergency amendment at 18 Ill. Reg. 4426, effective March 7, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14692, effective September 13, 1994; amended at 19 Ill. Reg. 8114, effective June 7, 1995; amended at 20 Ill. Reg. 303, effective January 1, 1996; amended at 22 Ill. Reg. 1141, effective January 1, 1998; amended at 23 Ill. Reg. 8813, effective July 26, 1999; amended at 26 Ill. Reg. 8346, effective June 1, 2002; emergency amendment at 27 Ill. Reg. 10434, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18546, effective November 25, 2003; amended at 28 Ill. Reg. 15456, effective November 22, 2004; emergency amendment at 32 Ill. Reg. 10963, effective July 3, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 17674, effective November 1, 2008.

## SUBPART F: LIQUID PETROLEUM MEASURING DEVICES

**Section 600.770 Maintenance of Equipment**

As used in G-UR.4.1 (Maintenance of Equipment) of the National Institute of Standards and Technology Handbook 44, which is adopted in Section 8 of the Act, for purposes of this Subpart, "predominantly" means as follows:

- a) The majority of the devices are found to be in error in a direction favorable to the device user and the average error of all devices is in favor of the device user by more than one-half maintenance tolerance; or
- b) The average error of any single product or grade is in favor of the device user by more one-half maintenance tolerance.

(Source: Added at 32 Ill. Reg. 17674, effective November 1, 2008)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Professional Boxing Act
- 2) Code Citation: 68 Ill. Adm. Code 1370
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1370.15	Repealed
1370.20	Repealed
1370.25	Repealed
1370.26	Repealed
1370.27	Repealed
1370.28	Repealed
1370.29	Repealed
1370.30	Repealed
1370.40	Repealed
1370.80	Repealed
1370.90	Repealed
1370.100	Repealed
1370.105	Repealed
1370.110	Repealed
1370.120	Repealed
1370.140	Repealed
1370.160	Repealed
1370.305	Repealed
1370.310	Repealed
1370.315	Repealed
1370.340	Repealed
1370.350	Repealed
1370.360	Repealed
1370.370	Repealed
- 4) Statutory Authority: Professional Boxing Act [225 ILCS 105]
- 5) Effective Date of Repealer: November 3, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this Repealer contain incorporations by reference? No

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED REPEALER

- 8) A copy of the adopted repealer, 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 Proposed Repealer Published in Illinois Register: 32 Ill. Reg. 9457; July 7, 2008
- 10) Has JCAR issued a Statement of Objection to this Repealer? 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 this repealer replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Repealer: Public Act 95-593, effective June 1, 2008, made significant changes to the Professional Boxing Act, including providing for the regulation of mixed martial arts contests. As a result of these changes and the need for a general overhaul and updating of the rules, the existing Part 1370 is being repealed and replaced with a new Part 1371 in this issue of the *Illinois Register*.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Department of Financial and Professional Regulation  
Division of Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 3<sup>rd</sup> Floor  
Springfield, Illinois 62786

217/785-0813

Fax: 217/557-4451

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Professional Boxing and Martial Arts Contests
- 2) Code Citation: 68 Ill. Adm. Code 1371
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1371.10	New Section
1371.15	New Section
1371.20	New Section
1371.30	New Section
1371.40	New Section
1371.50	New Section
1371.60	New Section
1371.70	New Section
1371.80	New Section
1371.90	New Section
1371.100	New Section
1371.110	New Section
1371.120	New Section
1371.130	New Section
1371.140	New Section
1371.150	New Section
1371.160	New Section
1371.170	New Section
1371.180	New Section
1371.190	New Section
1371.200	New Section
1371.210	New Section
1371.220	New Section
1371.230	New Section
1371.240	New Section
1371.250	New Section
1371.260	New Section
1371.270	New Section
1371.280	New Section
1371.300	New Section
1371.310	New Section
1371.320	New Section
1371.330	New Section
1371.340	New Section

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

1371.350	New Section
1371.360	New Section
1371.370	New Section
1371.380	New Section
1371.400	New Section
1371.410	New Section
1371.420	New Section
1371.430	New Section
1371.440	New Section
1371.450	New Section
1371.460	New Section
1371.470	New Section

- 4) Statutory Authority: Professional Boxing Act [225 ILCS 105]
- 5) Effective Date of Rulemaking: November 3, 2008
- 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) Date Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 9489; July 7, 2008
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: The title of the Part has been changed to reflect the inclusion of martial arts, but the rules are substantially the same. Various non-substantive changes and clarifications have been made.
- 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 rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

- 15) Summary and Purpose of Rules: Public Act 95-593, effective June 1, 2008, made significant changes to the Professional Boxing Act, including providing for the regulation of mixed martial arts contests. As a result of these changes and the need for a general overhaul and updating of the rules, the existing Part 1370 has been repealed and replaced with this new Part 1371. General provisions covering both boxing and martial arts/MMA are provided for first, followed by provisions specific to boxing or MMA. Specifics include safety and equipment requirements, licensure provisions relating to all of the participants (contestants, promoters, managers, judges, referees, and seconds, among others), and how the bouts are conducted. The fees included in Section 1371.20 have been increased, in part due to the reduction in the statutes of the gross receipts ticket tax paid by the promoters from 10% to 3%, and to reflect the fees paid in other states. The rules make various non-substantive changes to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation. Obsolete language has also been removed and other technical changes have been made from the existing Part 1370.
- 16) Information and questions regarding these adopted rules shall be directed to:

Department of Financial and Professional Regulation  
Division of Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 3rd Floor  
Springfield, Illinois 62786

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

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

## TITLE 68: PROFESSIONS AND OCCUPATIONS

## CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

## PART 1371

## PROFESSIONAL BOXING AND MARTIAL ARTS CONTESTS

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AUTHORITY: Implementing the Professional Boxing Act [225 ILCS 105] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

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## SUBPART A: GENERAL PROVISIONS

**Section 1371.10 Definitions**

Unless the text indicates otherwise, the following terms shall be defined as indicated:

"Act" means the Professional Boxing Act [225 ILCS 105].

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"Announcer" means a person responsible for announcing the names of the officials and the contestants, the contestants' weights, and the decisions of the referee and judges during a bout.

"Board" means the State Professional Boxing Board.

"Bout" means one professional boxing, martial arts or mixed martial arts match between 2 contestants.

"Boxing" means the art of attack and defense with the fists practiced as a sport.

"Contest" means a group of bouts organized as a single event.

"Contestant" means a person licensed by the Division who competes in a bout.

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

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

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

"Exhibition" means a show of boxing, martial arts or mixed martial arts, or sparring in which there is no score or decision.

"Fighting Area" means the ring, cage or physical area where the contestants compete.

"Inspector" means a person employed by the Division to attend contests and to ensure that all laws are adhered to by licensees of the Division.

"Judge" means a person licensed by the Division who serves as a member of a judging panel for contests. The panel is responsible for determining a decision in each bout.

"Main event" means the bout during a contest that is the main attraction for the contest.

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"Manager" means a person licensed by the Division who is not a promoter and who, under contract, agreement or other arrangement with any contestant, undertakes to directly or indirectly control or administer the affairs of a contestant.

"Martial Arts" means a discipline such as, but not limited to, Karate, Kung Fu, Jujitsu, Muay Thai, Tae Kwon Do and Kickboxing, or other similar sport.

"Matchmaker" means a person licensed by the Division who is responsible for matching the contestants for a bout as to weight and experience.

"Mixed Martial Arts" means the use of a combination of techniques from different disciplines of martial arts, including without limitation grappling, kicking and striking.

"Official" means referees, judges, timekeepers, physicians and Division representatives involved in professional events.

"Paramedic" means a person licensed under the Emergency Medical Services Systems Act [210 ILCS 50] as an Emergency Medical Technician-Paramedic.

"Permit" means authorization from the Division to hold a contest in the State of Illinois.

"Physician" means a person licensed under the Medical Practice Act of 1987 [225 ILCS 60] to practice medicine in all of its branches.

"Promoter" means a natural person licensed by the Division to conduct contests.

"Purse" means the financial guarantee or any other remuneration contestants receive for participating in a bout. It includes the contestant's share of any payment received for radio broadcasting, television or motion picture rights.

"Referee" means a person licensed by the Division who is responsible for enforcing the Act and this Part during any bout.

"Second" means a person licensed by the Division who attends to the contestant between rounds.

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

"Sparring" means boxing or engaging in martial arts or mixed martial arts for practice or exhibition.

"Timekeeper" means a person licensed by the Division who is responsible for keeping accurate time during each bout.

**Section 1371.15 Sanctioning Bodies – Amateur**

- a) In determining whether an amateur sanctioning body shall be approved pursuant to Sections 1.5 and 6 of the Act, the Department shall consider, but is not limited to, the following factors:
- 1) the sanctioning body is exclusively or primarily dedicated to advancing the sport;
  - 2) the sanctioning body limits participation in its events to its registered members;
  - 3) the sanctioning body has a record of enforcing the rules governing a contest or exhibition;
  - 4) the record for safety of the sanctioning body; and
  - 5) the rules for the sanctioning body provide substantially similar protections for the health, safety and welfare of the contestants as the Act and this Part.
- b) In seeking approval under this Section, the sanctioning body shall submit this information, and other information the sanctioning body believes relevant, to the Department. The Department may request additional information, including an appearance before the Board, to clarify information or clear up any discrepancies. The Department may withdraw its approval of a sanctioning body if the sanctioning body fails to enforce those representations made to the Department in obtaining approval. Unless otherwise provided for in Sections 1.5 and 6 of the Act, amateur events not sponsored by an approved sanctioning body are not exempt events.

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**Section 1371.20 Fees**

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

- a) Application Fees
  - 1) The application fee for a license as a promoter is \$1000.
  - 2) The application fee for a license as a referee is \$300.
  - 3) The application fee for a license as a matchmaker is \$250.
  - 4) The application fee for a license as a manager is \$200.
  - 5) The application fee for a license as a contestant is \$100.
  - 6) The application fee for a license as a timekeeper is \$150.
  - 7) The application fee for a license as a judge is \$100.
  - 8) The application fee for a license as a second is \$50.
- b) Renewal Fees
  - 1) The renewal fee for a license as a promoter shall be calculated at \$500 per year.
  - 2) The renewal fee for a license as a referee shall be calculated at \$150 per year.
  - 3) The renewal fee for a license as a matchmaker shall be calculated at \$125 per year.
  - 4) The renewal fee for a license as a manager shall be calculated at \$100 per year.
  - 5) The renewal fee for a license as a contestant shall be calculated at \$50 per year.

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- 6) The renewal fee for a license as a timekeeper shall be calculated at \$75 per year.
  - 7) The renewal fee for a license as a judge shall be calculated at \$50 per year.
  - 8) The renewal fee for a license as a second shall be calculated at \$25 per year.
- c) General Fees
- 1) Determination of Fee
    - A) The fees for a permit for a contest are determined by the total number of bouts held, using the following fee brackets:
      - i) Permit for a contest to be held with 3-6 bouts is \$500.
      - ii) Permit for a contest to be held with 7-10 bouts is \$750.
      - iii) Permit for a contest to be held with 11 or more bouts is \$1000.
    - B) In the event that bouts are added to the contest and the total number of bouts exceeds the current permit fee bracket, the promoter will be responsible for paying the difference in permit fees at the weigh-in or within 24 hours after the contest. In the event that bouts are cancelled, there will be no refund of permit fees.
  - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement certificate of registration for a certificate of registration that has been lost or destroyed, or for the issuance of a certificate of registration with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Division records when no duplicate certificate of registration is issued.
  - 3) The fee for a certification of a licensee's record for any purpose is \$20.

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- 4) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
- 5) The fee for a roster of persons licensed in this State shall be the actual cost of producing the roster.

**Section 1371.30 Application for a Permit to Conduct a Contest**

- a) Permits shall not be issued for applications listing less than 3 bouts.
- b) A promoter shall submit a completed application for a permit to conduct a contest on forms supplied by the Division at least 20, but no more than 90, days prior to the scheduled event. The application shall include:
  - 1) The names, addresses, phone numbers and fax numbers of the promoter and matchmaker;
  - 2) The time, date and location of the contest;
  - 3) The seating capacity of the location where the contest is to be held;
  - 4) A copy of the written agreement for use of the venue by the promoter or proof of ownership of venue by the promoter;
  - 5) The admission charge or charges to be made;
  - 6) Proof of sufficient security in compliance with the Private Detective, Private Alarm, Private Security, Fingerprint Vendor and Locksmith Act of 2004 [225 ILCS 447];
  - 7) The name, address and phone number of the nearest hospital with a neurosurgical unit;
  - 8) A letter indicating the weigh-in location, date and time, which shall be subject to the approval of the Division; and
  - 9) The fee required by Section 1371.20.

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- b) The promoter shall obtain prior approval from the Division for any venue changes for the contest. The Division may require additional permit fees for any such change.
- c) The promoter shall obtain a new permit from the Division for any change of date for a previously issued permit. This initial permit shall be deemed null and void once the new permit is obtained.
- d) Permit fees are non-refundable.
- e) 10 days prior to the contest, the promoter shall submit the following to the Division:
  - 1) The amount of compensation to be paid to each participant;
  - 2) The names of the contestants and current information from an official recordkeeper designated by the Division such as Fight Fax or any equivalent as determined by the Division;
  - 3) Proof of insurance as required by Section 8 of the Act:
    - A) Contestant's primary death and dismemberment insurance for not less than \$50,000 with any deductible paid by the promoter;
    - B) Contestant's primary medical insurance for not less than \$50,000 with any deductible paid by the promoter;
    - C) Public liability insurance: \$500,000 minimum;
    - D) Property damage insurance: \$25,000 minimum;
    - E) A completed ambulance agreement letter; and
    - F) A letter indicating the name of the announcer for the contest. The announcer shall be subject to approval by the Division.
- f) 7 days prior to the contest, the promoter shall submit to the Division a notarized printer's manifest for the amount and price of tickets printed for contest promotions. General admission tickets shall be consecutively numbered. When

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available, an electronic printout is to be given to a Division representative on the day of the show. All complimentary tickets shall be printed as such or reflect a zero dollar value.

- g) In addition, the promoter shall submit the following contracts:
  - 1) a copy of the promoter and contestant contract for the main event shall be signed by the promoter, contestant and manager, if applicable, and filed with the Division a minimum of 5 days before the scheduled contest.
  - 2) a copy of the contracts for the preliminary bouts shall be signed by the promoter, contestant and manager, if applicable, and filed with the Division a minimum of one day in advance of the scheduled contest.
- h) 24 hours prior to the event or at the weigh-in, the promoter shall provide to the Division the purse and payments for the officials, as required by Section 1371.80(g).
- i) The Division will not approve permits for:
  - 1) Bouts between members of the opposite sex;
  - 2) Bouts between professional and amateur contestants;
  - 3) Bouts between human contestants and nonhumans; or
  - 4) Contests with more than 2 contestants competing in the same bout.
- j) The Division may deny an application for a permit or grant a limited, restricted or conditional permit when the Division determines that denying or restricting a permit is in the best interest of the public's health, welfare and safety.
- k) No promoter, official or contestant shall serve in any capacity at a contest for which the Division has denied a permit or for which a permit has not been issued. Participation in non-permitted contents may be grounds for discipline.
- l) The promoter must have an approved permit before any advertisement, publicity or other public announcement is issued for the contest unless there is prominently

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displayed a disclaimer stating that the contest has not yet been approved. Violation of this provision may be grounds for discipline.

**Section 1371.40 Application for a License as a Promoter**

- a) Promoters shall be separately licensed for either boxing or martial arts/mixed martial arts.
- b) An applicant for licensure as a promoter shall file a completed, signed application with the Division, on forms provided by the Division, that includes:
  - 1) A copy of a government issued photo identification (e.g., driver's license, passport);
  - 2) Proof of a surety bond of no less than \$5,000, as required by Section 11 of the Act, to cover financial obligations;
  - 3) A financial statement prepared by a licensed or registered certified public accountant showing liquid working capital of \$10,000 or more or a \$10,000 performance bond guaranteeing payment of all obligations relating to the promotional activities. The statement will be held confidential;
  - 4) Proof of good moral character. The applicant shall notify the Division of any criminal convictions other than minor traffic violations. The Division may consider any criminal convictions or discipline in another jurisdiction in which the applicant is licensed when determining if the applicant is qualified for licensure; and
  - 5) The required fee set forth in Section 1371.20.
- c) When the accuracy or sufficiency of any submitted documentation is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure may be requested to:
  - 1) Provide the necessary information; and/or
  - 2) Appear for an interview before the Board to clarify information or clear up

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any discrepancies or conflicts in information.

**Section 1371.50 Application for a License as a Matchmaker**

- a) Matchmakers shall be separately licensed for either boxing or martial arts/mixed martial arts.
- b) The Division may deny an application for licensure if the applicant fails to meet the qualifications specified in this Section, fails to pass a required examination, or otherwise fails to complete training to the satisfaction of the Division.
- c) All matchmakers shall be licensed.
- d) An applicant for a license shall complete an application provided by the Division, which shall include the fee set forth in Section 1371.20.
- e) An applicant must be at least 18 years of age.
- f) Licensees shall comply with all applicable federal regulations governing boxing, martial arts or mixed martial arts.
- g) Applications for licensure as a matchmaker shall include:
  - 1) A government issued photo identification (e.g., driver's license, passport);
  - 2) Proof that the applicant has matched contestants in a minimum of 5 amateur or professional contests. The Division may examine any applicant for licensure as a matchmaker to determine whether the applicant has sufficient knowledge of the sport and is otherwise competent to perform as a matchmaker. Failure by an applicant of the examination, as determined by the Division, shall result in denial of the license; and
  - 3) Proof of good moral character. The applicant shall notify the Division of any criminal convictions other than minor traffic violations. The Division may consider any criminal convictions or discipline in another jurisdiction in which the applicant is licensed when determining if the applicant is qualified for licensure.

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- h) When the accuracy or sufficiency of any submitted documentation of stated experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure may be requested to:
  - 1) Provide the necessary information; and/or
  - 2) Appear for an interview before the Board to clarify information or clear up any discrepancies or conflicts in information.

**Section 1371.60 Application for a License as a Manager**

- a) Managers shall be separately licensed for either boxing or martial arts/mixed martial arts.
- b) All managers shall be licensed.
- c) An applicant for a license shall complete an application provided by the Division, which shall include the fee set forth in Section 1371.20.
- d) An applicant must be at least 18 years of age.
- e) Licensees shall comply with all applicable federal regulations governing boxing, martial arts or mixed martial arts.
- f) Proof of good moral character. The applicant shall notify the Division of any criminal convictions other than minor traffic violations. The Division may consider any criminal convictions or discipline in another jurisdiction in which the applicant is licensed when determining if the applicant is qualified for licensure.
- g) Applications for licensure as a manager shall include a government issued photo identification (e.g., driver's license, passport).
- h) When the accuracy or sufficiency of any submitted documentation of stated experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure may be requested to:

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- 1) Provide the necessary information; and/or
- 2) Appear for an interview before the Board to clarify information or clear up any discrepancies or conflicts in information.

**Section 1371.70 Application for a License as a Second**

- a) Seconds shall be separately licensed for either boxing or martial arts/mixed martial arts.
- b) The Division may deny an application for licensure if the applicant fails to meet the qualifications specified in this Section, fails to pass a required examination, or otherwise fails to complete training to the satisfaction of the Division.
- c) All seconds shall be licensed.
- d) An applicant for a license shall complete an application provided by the Division, which shall include the fee set forth in Section 1371.20.
- e) An applicant must be at least 18 years of age.
- f) Licensees shall comply with all applicable federal regulations governing boxing, martial arts or mixed martial arts.
- g) The application for licensure as a second shall include:
  - 1) A government issued photo identification (e.g., driver's license, passport);
  - 2) Proof of active licensure in another jurisdiction. Applicants not licensed elsewhere may be required to appear for an interview with the Board; and
  - 3) Proof of good moral character. The applicant shall notify the Division of any criminal convictions other than minor traffic violations. The Division may consider any criminal convictions or discipline in another jurisdiction in which the applicant is licensed when determining if the applicant is qualified for licensure.
- i) When the accuracy or sufficiency of any submitted documentation of stated experience is questioned by the Division or the Board because of lack of

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information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure may be requested to:

- 1) Provide the necessary information; and/or
- 2) Appear for an interview before the Board to clarify information or clear up any discrepancies or conflicts in information.

**Section 1371.80 Promoters**

- a) No owner, officer, principal, association, partnership, corporation or limited liability company shall promote any contest without that person or a principal of that business obtaining a license from the Division.
- b) Responsibilities of promoters shall include:
  - 1) Full responsibility for all aspects of the contest and for meeting all deadlines for submission of contest permit and promoter licensure applications; and
  - 2) Supervision of their agents, employees, and representatives, the conduct of those agents, employees and representatives, and any violation of the Act or this Part related to the contest. The Division shall deem any violation by an agent, employee or representative of a promoter a violation by the promoter.
- c) Promoters shall not permit another to use their license.
- d) Promoters shall provide notification to contestants of the weigh-in time and location. The promoter shall also be responsible for notifying contestants when to report to their dressing room on the day of the contest; that time shall be determined by the Division.
- e) Promoters shall provide notification to the contestants that a foul-proof cup, professional mouth piece, and 2 pairs of different colored trunks are compulsory.
- f) Promoters shall provide notification to contestants of proper attire as defined in this Part.

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- g) Promoters shall provide compensation to the contestants, referees, announcers, physician, timekeepers, paramedics and judges. The promoter shall provide the compensation, in cash, certified checks, money orders, or other form of Division-approved payment, to the Division at or before the weigh-in. A Division representative will pay the officials and provide a receipt to the promoter. Failing to provide payment or providing payment late to the Division may result in discipline.
- h) Promoters shall arrange for at least one ambulance to be on-site, at all times, at each bout, along with 2 licensed paramedics, a stretcher, oxygen and proper resuscitation equipment as provided for in the Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515). No bout shall continue without the presence of the 2 paramedics and the required equipment as provided for in Emergency Medical Services and Trauma Code.
- i) A promoter may not be a contestant in a contest he or she is promoting.
- j) Promoters and organizations associated with the contests shall be deemed to have knowledge of the applicable laws and rules of the State. The promoter shall be responsible for ensuring that all rules promulgated by the Division are strictly carried out.
- k) Promoters shall provide all materials necessary to conduct the contest, including but not limited to such items as:
  - 1) the fighting area;
  - 2) stools, buzzer or whistle, bell or gong, timer, gloves, gauze, tape for hand wraps and properly calibrated scales;
  - 3) a foul proof cup, clean towels, shoe laces, a professional mouthpiece, and medical tape;
  - 4) clean dressing room facilities, including washroom and shower for contestants and officials. Separate facilities shall be provided for male and female contestants;
  - 5) 3 small platforms or elevated chairs for the judges; and

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- 6) at minimum, 2 buckets and 2 appropriately sized bottles for use by the contestants.
- l) Promoters shall be responsible for ensuring the maintenance of adequate public safety for all contests. Failure to ensure adequate public safety may result in cancellation of a contest, discipline against a promoter's license, denial of future contest permits, or any combination thereof.
- m) For adequate public safety, the promoter is responsible for ensuring that no liquid refreshments or bottled or canned drinks, unless poured into disposable cups by vendors at the time of sale, are permitted in any hall or facility where any contest is being held. If the contest is staged out-of-doors, disposable cups also must be used on the site of the contest.
- n) At the discretion of the Division, chairs may be required to be attached so that they are not portable for the safety of contestants, officials and the public.
- o) Spectator seats shall be at least 8 feet from the apron of the fighting area platform. A physical barrier approved by the Division shall be placed 8 feet from the fighting area platform and shall have 2 entrances. Security shall be placed at each of these 2 entrances. The space immediately within 8 feet of the fighting area platform shall be under the jurisdiction of the Division for use by designated working officials, contestants, their seconds, timekeepers, judges, referees, physicians, announcers, medical representatives and others approved by the Division. Promoters are responsible for seeing that the working area is controlled and free of non-essential personnel.

**Section 1371.90 Judges**

- a) There shall be 3 judges required for each bout. All bouts shall be scored by each judge on a 10-point must system. The winner of the round shall be awarded 10 points and the loser of the round shall be awarded 9 or fewer points, except for rare instances of an even round for which each contestant shall be awarded 10 points. No fractions of points may be given.
- b) Contestants' techniques shall be judged based on the standards of their respective sport.
- c) The judges shall reach their decisions without conferring in any manner with any

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other official or person, including the other judges of the panel. Each judge shall make out his or her scorecard in accordance with provisions of the rules governing the respective sport. At the end of the round, the score shall be totaled and signed or initialed by each judge. The referee working the bout shall collect the scorecards after each round and hand them to the Division representative.

- d) Any erasures or changes on the scorecard shall be approved and initialed by the judge and the Division representative.
- e) Official scorecards from the Division shall be used and shall be retained in the custody of the Division representative who will transport them to the Division for safekeeping.
- f) The judges selected for each bout shall be at the sole discretion of the Division and that determination shall be final. The Division shall set the amount of compensation to be provided to the judges.
- g) Judges shall not show any partiality to any contestant at any time. There shall be no discussion of any kind among officials or with the public with regard to the decision or contest before or during the bout. The officials shall not discuss previous bouts while the contest is in progress.

**Section 1371.100 Inspectors**

The Division shall determine and assign the number of inspectors at each contest as it deems necessary.

- a) In all contests, contestants, promoters, managers, matchmakers, judges, referees, timekeepers, seconds, announcers and physicians at all times shall be under direction of the Division through its designated representatives and inspectors.
- b) Employees and inspectors of the Division shall not have, either directly or indirectly, any interest in, or connection with, any promotion of professional contestants or contests in this State.
- c) The Division and its inspectors shall supervise the sale of tickets, check the counting of receipts, and enforce the Act and this Part.
- d) When printed tickets are presented to the ticket taker, he or she shall immediately

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deposit every admission ticket, pass or complimentary ticket in a secure box. It shall be opened only in the presence of the Division inspector, who shall see that all tickets or passes are carefully counted and reported to the Division, along with the price of admission charged for each class of ticket and exchanges and the gross receipts of all tickets. If printed tickets are otherwise scanned or are electronically processed, a printed record reflecting all of the information required by this subsection shall be provided to the Division.

- e) Before the start of a contest, an inspector must check that all contestants, promoters, managers, matchmakers, seconds, timekeepers, referees and physicians are licensed by the Division. Any of those persons without a current license issued by the Division shall not participate in the contest, unless and until an application and fee have been received and the application is approved by the Division.
- f) An inspector shall be present in the dressing rooms at the designated time for observing contestants and inspecting all equipment.
- g) All hand wrappings must be approved by an inspector prior to being placed on contestants. After approval, all hand wraps shall be initialed by the inspector present.
- h) No contestant may be gloved outside the presence of an inspector. After approval of the gloving, the tape around the strings shall be initialed by the inspector present.
- i) The inspector is responsible for warning the seconds of violations of any rules relating to seconds. If, after a warning, the second does not conduct himself or herself in accordance with the rules, the referee shall warn the second that further violations may result in disqualification of his or her contestant or his or her removal from the corner.
- j) Inspectors shall not show any partiality to any contestant at any time. There shall be no discussion of any kind among inspectors with regard to the decision or contest. The inspectors shall not discuss previous bouts while the contest is in progress.

**Section 1371.110 Matchmakers**

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- a) The duties of the matchmaker shall include arranging the bouts and matching the contestants as to weight and experience.
- b) All bouts shall be approved by the Division. The Division may prohibit any bout deemed to be a mismatch based on the record, experience, skill and condition of the contestants as known or represented to the Division at or before the bout or that could expose one or both contestants to serious injury. Any contestant who has lost his or her last 7 bouts, regardless of type of loss, shall not compete in a bout without prior review and approval of the Division.
- c) No matchmaker in a specific contest shall act in the capacity of a manager or second for that specific contest either directly or indirectly.

**Section 1371.120 Seconds**

- a) Unless prior approval is given by the Division, there shall be no more than 3 seconds per contestant allowed, one of whom shall announce to the referee at the start of the bout that he or she is the chief second.
  - 1) For boxing contests: Only one second shall be inside the fighting area between rounds; the other 2 seconds may be on the ring platform outside the fighting area.
  - 2) For martial arts and mixed martial arts contests: When the fighting area is enclosed by a cage or similar barrier, up to 2 seconds may be inside the fighting area between rounds. When the fighting area is enclosed by ropes, only one second shall be inside the fighting area between rounds
- b) A minimum of 2 seconds per contestant is required. If requested, a maximum of 5 seconds per contestant may be allowed at the discretion of the Division.
- c) Managers shall be permitted to act as seconds without being licensed as a second. While acting as a second, a manager shall observe all rules pertaining to the conduct of seconds.
- d) Seconds shall comply with the following:

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- 1) Seconds shall not stand or lean on the fighting area apron during the round. Seconds must remain seated during the round. The second may not sit or lean on the steps leading to the fighting area.
- 2) Seconds shall not yell. All coaching must be kept to a minimum. Continuous warnings may result in one or a combination of the following: removal of the second, disqualification of the contestant, or discipline of the second.
- 3) Seconds shall not enter the fighting area until the timekeeper indicates the end of the round. Seconds must leave the fighting area when the timekeeper indicates 10 seconds before the beginning of the next round. If the chief second or anyone for whom the chief second is responsible enters the fighting area before the bell ending the round has sounded, his or her license may be subject to discipline and the contestant he or she is handling may be disqualified. While the round is in progress, the chief second may either mount the apron of the fighting area or otherwise attract the referee's attention, indicating the retirement of the contestant. A second shall not enter the fighting area unless the referee stops the bout and shall not interfere with a count that is in progress.
- 4) The chief second shall be responsible for the conduct of his or her assistant seconds during the contest.
- 5) Good sportsmanship is expected at all times.
- 6) It is mandatory for seconds to wear disposable rubber, plastic or latex gloves while working in a contestant's corner.
- 7) Seconds shall not use excessive amounts of water or ice and shall wipe up any water in the fighting area. Before leaving the fighting area and at the indication of the timekeeper, seconds must remove any obstruction such as buckets, stools, towels and other materials from the corner of the fighting area.
- 8) Seconds shall be responsible for compliance with Sections 1371.330(b) and 1371.430(b) relating to bandages and handwraps.
- 9) The second shall be equipped with:

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- A) A clear plastic bottle or water bottles sufficiently taped;
  - B) Water;
  - C) Chopped ice in buckets;
  - D) Clean towels;
  - E) Vaseline or other petroleum-based product;
  - F) Adhesive tape;
  - G) Sterile gauze pads;
  - H) Scissors;
  - I) Extra mouthpiece;
  - J) Sterile cotton swabs; and
  - K) Pressure plates.
- 10) No iron solution shall be used to stop hemorrhaging. Only the following substances may be used:
- A) A solution of adrenaline 1/1000;
  - B) Avitene;
  - C) Thrombin; or
  - D) Any other substance approved by the physician.
- e) Any violation of the requirements in subsection (d) of this Section may result in one or a combination of the following:
- 1) A deduction of points from the second's contestant;

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- 2) Suspension of the second; and
- 3) Ejection of the second from the corner.

**Section 1371.130 Timekeepers**

- a) There shall be a timekeeper, licensed by the Division, responsible for keeping track of time during a contest.
- b) Timekeepers shall be equipped with a whistle, a knockdown watch, a 3- or 5-minute stopwatch, as appropriate, and a back-up gong or other audible device that have been approved by the Division.
- c) Timekeepers must adhere to the following:
  - 1) The timekeeper shall be impartial. A timekeeper who signals interested parties at any time during bouts shall be subject to discipline.
  - 2) When there are 10 seconds remaining in the rest period between rounds, the timekeeper shall sound a whistle, buzzer or other audible device approved by the Division for such purpose to warn the referee, contestants and seconds of the beginning of the next round.
  - 3) The timekeeper shall indicate the commencing and conclusion of each round by sounding the gong, bell, or other audible device approved by the Division for such purpose. The timekeeper shall also indicate by pounding the fighting area when there are 10 seconds remaining in the round to warn the referee of the end of the round.
  - 4) It is the duty of the timekeeper to keep accurate time of all bouts. The timekeeper shall keep an exact record of time taken out at the request of a referee for an examination of a contestant by the physician, or the replacement of a glove or adjustment of any equipment during a round and the timekeeper shall report the exact time of a bout being stopped.
  - 5) When applicable, the timekeeper shall be responsible for the knockdown count. The timekeeper shall begin counting each second during the knock-down count. If the knockdown occurs within 10 seconds prior to the end of the round, the timekeeper shall not ring the bell, or other

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audible device approved by the Division for such purpose, until the referee indicates the contestant is ready.

- 6) There shall be no discussion of any kind among officials with regard to the decision or program. The officials shall not discuss previous bouts while the program is in progress.
- 7) The timekeeper selected for each bout shall be at the sole discretion of the Division and that determination shall be final.
- d) The Division shall set the amount of compensation to be provided to the timekeeper. The promoter is responsible for all compensation for the timekeeper.

**Section 1371.140 Referees**

- a) The referee is charged with the enforcement of provisions of the Act and this Part that apply to the conduct of contests and the conduct of the contestants and contestant's seconds while in the fighting area. The referee shall be the chief official and sole arbiter during all bouts.
- b) A referee shall be licensed by the Division and shall be selected and assigned to contests by the Division.
- c) A referee shall not show partiality to any contestant at any time.
- d) A referee shall adhere to the following:
  - 1) When a referee has cause to suspect a violation of the Act or this Part, he or she shall file a report with the Division describing the event.
  - 2) A referee must report for duty at least one hour before the scheduled starting time of the contest.
  - 3) A referee must first report to Division representatives, then to the physician for examination and shall avoid conversation except with Division officials.
  - 4) Before starting each bout, the referee shall:

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- A) Check with each judge and timekeeper to determine if each is ready;
  - B) Ascertain the name of the chief second in each corner; and
  - C) Verify that the physician is present.
- 5) At the beginning of the contest, the referee shall call contestants to the center of the ring. Contestants may be accompanied by their chief second only.
- 6) It is mandatory for the referee to wear disposable rubber, plastic or latex gloves when refereeing a bout.
- 7) The referee shall remain in the fighting area for the entire duration of the bout.
- 8) The referee shall ensure that the contestant stays in his or her corner between rounds.
- 9) The referee shall hold the chief second responsible for all conduct in his or her corner.
- e) In the event a bout terminates before its scheduled number of rounds, the referee shall inform the judges and the Division of the exact duration of the bout.
- f) The referee may stop or terminate a bout and render a decision for any of the following reasons:
- 1) The referee determines that one of the contestants is clearly less experienced or skilled than his or her opponent to the extent that allowing the bout to continue would pose a substantial risk of serious harm or injury to the less experienced or skilled contestant;
  - 2) The referee determines that one of the contestants is at substantial risk of serious harm or injury and despite such harm or injury cannot or will not submit, in the case of martial arts or mixed martial arts, or stop fighting in the case of boxing;

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- 3) The referee decides that a contestant is not making his or her best effort;
  - 4) To protect a badly beaten contestant who can no longer protect himself or herself. When a contestant sustains a cut eye or any other injury that, in the judgment of the referee, may incapacitate the contestant, the referee may call the physician into the fighting area to examine the contestant. In such cases, the referee shall be guided by the physician's advice;
  - 5) The referee determines that one contestant is hanging helplessly on or over the fighting area enclosure or the contestant is physically unable to continue a match or to defend himself or herself; or
  - 6) For any other reason the referee deems necessary to protect the health, safety or welfare of any contestant or any member of the public.
- g) When the fighting area is enclosed by ropes, the referee may stop the bout and require the contestants to resume the action in the center of the fighting area in the same hold the contestants were engaged in at the time the bout was stopped.
  - h) The referee shall warn or penalize with a deduction of points a contestant who uses the ropes, cage or any other unfair means to gain advantage.
  - i) Whenever a contestant has been injured, knocked out or technically knocked out, the referee shall immediately summon the attending physician to evaluate the injury of the stricken contestant. The physician may recommend the bout be stopped. Except at the request of the physician, no managers or seconds shall be permitted to aid the stricken contestant.
  - j) The referee shall warn the seconds of violations of any rules relating to seconds. If, after such a warning, the second does not conduct himself or herself in accordance with the rules, the referee shall warn the second that further violations may result in disqualification of his or her contestant or removal of the second from the corner.
  - k) The referee shall instruct judges to mark their scorecards accordingly when he or she has assessed a foul upon one of the contestants.
  - l) The referee shall deliver the official scorecards to the Division representative. When picking up the scorecards from the judges, the referee shall see to it that the

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cards are completed and the contestants' and judges' names are recorded. If not, the judges shall be instructed to complete scorecards correctly.

- m) The referee shall ensure that a bout moves to its proper completion. Delaying or avoiding tactics, or both, should be avoided and the contestant who employs these tactics may be penalized in scoring or disqualified.
- n) The referee selected for each bout shall be at the sole discretion of the Division and that determination shall be final. The promoter is responsible for all compensation for the referee. The Division shall set the amount of compensation to be provided to the referee.

**Section 1371.150 Physicians and Paramedics**

- a) Physicians
  - 1) The Division shall appoint at least one physician for all contests. Additional physicians shall be appointed as determined by the Division. The physician selected for each contest shall be at the sole discretion of the Division and that determination shall be final. The promoter is responsible for all compensation for the physician. The Division shall set the amount of compensation to be provided to the physician.
  - 2) A physician shall perform all physical examinations.
  - 3) The physician shall sit immediately adjacent to the fighting area at every contest. A contest may not proceed unless the physician is in his or her seat. The physician shall not leave the venue until after all contestants have left. If called upon, the physician shall be ready to advise the referee.
  - 4) The physician may enter the fighting area during the progress of a bout when he or she or the referee deems it necessary. The physician may enter the fighting area between rounds on his or her own judgment and shall inform the referee about his or her opinion in relation to the physical condition of either contestant.
  - 5) The physician shall have drugs and medical supplies available in the event of injury to a contestant.

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- 6) The physician shall report in writing to the Division all injuries received by a contestant immediately following the bout. The physician shall also report on the fitness of the contestants to engage in further competition.
- b) Paramedics
    - 1) 2 paramedics shall be available to assist the physician and provide emergency medical equipment, including resuscitation equipment.
    - 2) 2 paramedics shall be on site, at all times, at each bout, along with a stretcher, oxygen and proper resuscitation equipment. No bout shall continue without the presence of the 2 paramedics and the required equipment.
    - 3) Paramedics are responsible for a comprehensive evacuation plan for the removal of any seriously injured contestant from the contest to a hospital facility where emergency medical care is provided.
    - 4) Paramedics are responsible for knowing the location of the closest hospital emergency facility where adequate neurosurgical care is immediately available for skilled emergency treatment of an injured contestant.
    - 5) Paramedics must check the vital signs of all contestants prior to their participation in a contest and after contestants complete their bouts. Paramedics shall record this information on forms provided by the Division. Paramedics shall also record their recommendation (stitches, x-rays, etc.) and advise the physician of their recommendation.

**Section 1371.160 Access to Venue**

The promoter of a contest and officials of the venue shall permit the following persons full access to the site of the contest and the dressing rooms:

- a) Any Division employee authorized by the Division or its designee;
- b) Any authorized firefighters, police officers, security officers and any other individuals authorized by the Division assigned to work the event; and
- c) Any referee, judge, timekeeper, physician and medical personnel who are

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authorized by the Division and are assigned to the event and who presents photo identification and an official badge or other credential evidencing that status.

**Section 1371.170 Facility and Equipment Requirements for Contests**

- a) Tables immediately surrounding the fighting area shall be no higher than the level of the fighting area platform.
- b) The fighting area shall be approved by the Division, including all padding or enclosures. Fighting areas not approved by the Division shall not be used.
- c) The gong, bell, buzzer, horn or other audible device approved by the Division shall be sufficiently loud so that the officials and contestants can hear it clearly. The 10 second warning before the start of a round may be by whistle or by gong, bell, buzzer, horn or other audible device approved by the Division for that purpose.
- d) The promoter may provide and prominently display video screens during any bout or contest that meets the approval of the Division and that allows patrons to view the action inside the fighting area without obstruction.

**Section 1371.180 Safety Requirements and Physical Appearance for Contestants**

All contestants shall present a clean and tidy appearance and shall comply with the following:

- a) Fingernails and toenails shall be sufficiently trimmed to avoid the risk of cutting or scratching an opponent;
- b) Hair shall be trimmed or tied back so that the hair does not interfere with the vision of the contestant or cover the contestant's eyes. The Division's representative shall determine whether a contestant's head and facial hair presents any safety hazard to the contestant or his or her opponent or would interfere with the supervision and conduct of the bout;
- c) Body grease, gels, balms or lotions applied to any part of a contestant is prohibited. Petroleum jelly or other similar petroleum based product may be applied to the facial area at cage side in the presence of an inspector, referee or person designated by the Division. The referee or Division representative shall cause any excessive petroleum jelly or other permitted substance or any foreign

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substance to be removed to his or her satisfaction. Any contestant applying anything to any part of his or her body outside the presence of an inspector, referee or person designated by the Division may be penalized a point or disqualified;

- d) No cosmetics shall be worn during a bout;
- e) Jewelry or piercing accessories are prohibited; and
- f) A contestant is prohibited from wearing corrective lenses or contact lenses in the fighting area.

**Section 1371.190 Weigh-Ins**

- a) The weigh-in shall be conducted by an inspector or Division representative at a time and place approved by the Division.
- b) Prior to engaging in a contest, all contestants must submit to a weigh-in and a physical examination by the physician at the time and place approved by the Division.
  - 1) The physical examination given to contestants shall include, at a minimum, the following: weight, pulse, blood pressure, examination of the lungs and heart, and general physical condition.
  - 2) Contestants shall disclose all medical history and conditions to the physician during the physical examination. All female contestants must submit to a pregnancy test. Any female contestant who tests positive for pregnancy shall be prohibited from fighting.
  - 3) The physician shall conduct examinations and tests necessary to attest to the fitness of the contestants engaged in the contest. The physician shall certify in writing on a form prescribed by the Division those contestants who are in good physical condition to compete.
  - 4) If, upon physical examination, a contestant is determined by the physician to be unfit for competition, the contestant shall be prohibited from competing during that specific contest.

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- c) The scale used for the weigh-in shall be provided by the promoter and approved by the Division representative. The scales must weigh accurately and be capable of weighing up to an appropriate weight as determined by the Division. The Division may, in its discretion, use the scales furnished by the promoter or use its own scales. All scales furnished by the promoter shall be thoroughly tested and approved by the representative of the Division prior to being used in connection with any contest.
- d) Each contestant shall be weighed in the presence of his or her opponent, a representative of the Division, and an official representing the promoter, on scales approved by the representative of the Division, at any place designated by the Division. Weigh-ins shall be open to the public.
- e) Contestants shall have all weights stripped from their bodies before weigh-in. Male contestants may wear shorts and socks. Female contestants may wear shorts, a sports bra and socks.
- f) The representative of the Division may require contestants to be weighed more than once for any cause deemed sufficient.
- g) Contestants who fail to make the weight for their designated weight class shall be given up to 2 hours to make required weight. Any contestant who fails to make the weight shall be disqualified unless both contestants consent to participate in the scheduled bout.

**Section 1371.200 Bouts and Contests**

- a) All licensed individuals and organizations associated with the contests shall be deemed to have knowledge of the applicable laws and rules of the State. Any questions or interpretations shall be referred to the representative of the Division. If an immediate decision is required, it shall be referred to the Division or its designee who shall make a determination on the matter. In the event a situation occurs at the contest and there are no regulations in place to cover the situation, the representative of the Division shall make a decision on the matter. The Division's or its designee's ruling shall be final. The authority of the Division and the inspectors shall be respected. No one shall interfere with the inspectors' duties, use foul language towards the inspectors, or make threats of physical harm toward the inspectors. Any interference, use of foul language, or threats of physical harm towards the inspectors will be cause for disciplinary action.

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- b) The Division shall approve each bout.
- c) No bout shall be advertised or promoted as a championship bout unless it has the specific approval of the Division.
- d) Contestants shall at all times abide by the statutes and rules of Illinois governing boxing, martial arts and mixed martial arts.
- e) Contestants shall at all times observe the directions and decisions of all officials.
- f) A contestant shall not compete in more than one contest within a 7 day period. The Division may determine that more time between contests is necessary to protect the health and safety of the contestant.
- g) Each contestant shall report to the representative of the Division in the dressing rooms at least one hour before the scheduled time of the first bout of the contest. Failure to do so may result in the contestant being disallowed to participate in the bout.
- h) The administration or use of drugs or stimulants, either before or during a bout, to or by any contestant is prohibited. Any contestant violating this subsection shall be subject to disqualification.
- i) During a bout or contest, contestants shall only be permitted to drink water. No other fluids shall be permitted.
- j) Before starting a bout, the referee shall ascertain from each contestant the name of his or her chief second who shall be held responsible for the conduct of the assistant seconds during the progress of the bout. The referee shall call contestants together before each bout for final instructions, at which time each contestant shall be accompanied by the chief second only.
- k) The 3 judges shall be stationed at the sides immediately adjacent to the fighting area, each at a separate side. The judges shall turn scorecards over to the referee after each round. The referee shall then hand the scorecards to the Division or its designee. A final decision shall be made before the judges may leave the area. Any erasures or changes on the card shall be approved and initialed by the judge and Division or its designee.

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- l) After receiving instructions, the contestants may shake hands and retire to their corners.
- m) The contestants, the physician and the referee shall be the only persons allowed in the fighting area during the progress of a round. When the referee calls a timeout, he or she may permit the physician to enter the fighting area.
- n) Under no circumstances shall a contest be held with fewer than 3 bouts.
- o) Contests with Both Professional and Amateur Bouts
  - 1) If amateur bouts and professional bouts are scheduled during the same contest or event, the professional bouts shall only be held after the completion of all amateur bouts.
  - 2) There shall be a minimum of one amateur bout and a minimum of 3 professional bouts.
  - 3) There shall be no less than 15 minutes between amateur and professional contests.
- p) The contest shall commence no later than 30 minutes after the start time stated on the contest permit.
- q) Any person who has competed in any professional contest shall not participate in any amateur contest in the State of Illinois. The Division may discipline the license of any contestant, promoter, manager, matchmaker or second who violates, or assists or enables another to violate, the provisions of this subsection.
- r) The promoter shall provide an adequate room for the attending physician to conduct physical examinations. Whenever a contestant, because of illness or injuries, is unable to take part in a contracted bout, the contestant or the manager shall immediately report that fact to the inspector. The contestant shall then submit to an examination by a physician designated by the Division.
- s) The Division shall honor the suspension of a contestant by any state, tribal athletic commission, territory, federal agency or county that regulates contests in another jurisdiction if the suspension is ordered for:

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- 1) Medical safety;
  - 2) A violation of a law or regulation governing boxing, martial arts or mixed martial arts that would constitute a violation of the laws or regulations of this State; or
  - 3) Any other conduct that discredits boxing, martial arts or mixed martial arts, as determined by the Division.
- t) The Division may deny a contestant a license if the contestant's license to participate or compete as a contestant has been denied, refused or disciplined for a medical condition by another state, tribal athletic commission, territory, federal agency or county. The Division shall not issue a license to a contestant who has suffered a cerebral hemorrhage of any type.

**Section 1371.210 Scoring**

- a) Scoring shall be by 3 licensed judges in attendance to score each bout, stationed on different sides of the ring, and the referee. The judges shall watch every phase of the bout and make a decision if the contest lasts the full number of rounds scheduled. They shall be ready at all times, if requested by the referee, to assist in deciding whether fouls have been committed.
- b) The following shall be considered by judges while scoring:
  - 1) Clean blows, not otherwise prohibited by this Part, in proportion to their damaging effects.
  - 2) Aggressiveness.
  - 3) Defensive maneuvers for avoiding or blocking a blow.
  - 4) Conspicuous command of the fighting area, which includes such factors as the ability to take advantage of an opportunity; to cope with, foresee and neutralize an opponent's attack; or to force an opponent to adopt a style of fighting at which he or she is not skillful.
- c) System for Scoring a Contest

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- 1) The scoring of the contest by the judges will be by the 10-point must system.
- 2) Under the 10-point must system, the winner of each round receives 10 points and the loser a proportionately lower number.
- 3) If the round is even, each contestant receives the full number of points. No fractions are to be used.
- 4) If a round is stopped by a referee due to an accidental foul, the round shall be scored.

**Section 1371.220 Manager-Contestant Contracts**

- a) A manager and contestant shall file their contract with the Division.
- b) The Division shall recognize the filed document until such time as both parties appear before the Division to cancel, or a court of law notifies the Division that the contract is null and void.

**Section 1371.230 Tickets and Payment of Taxes**

- a) The right of admission to view a contest in person shall not be sold or otherwise granted to a person or entity unless that person or entity is provided with a ticket.
- b) The Division shall have supervision over the sales of tickets, ticket boxes, entrances and exits for the purpose of checking admission controls. The Division shall ensure that all tickets are counted and that the final accounting includes the:
  - 1) number of complimentary tickets;
  - 2) face value of each ticket;
  - 3) total number of each ticket price category sold; and
  - 4) gross receipts from all ticket sales.
- c) Every ticket shall be printed with the price, the name of the promoter and the date

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of the contest. Unless otherwise authorized by the Division, the ticket stub of each ticket shall indicate the price of the ticket. All complimentary tickets shall be printed as such or reflect a zero dollar value.

- d) A promoter shall not issue complimentary tickets for more than 4% of the seats in the house. The promoter shall be responsible to pay the taxes provided for in Section 13 of the Act for all complimentary tickets over and above the 4% cap on complimentary tickets. If the Division approves the issuance of complimentary tickets over and above the 4% cap, the complimentary tickets that are exempt from the tax shall be based on the lowest value of sold tickets distributed.
- e) To facilitate assessment of the taxes required to be paid by the promoter pursuant to Section 13 of the Act, the following procedures shall be followed:
  - 1) Tickets shall be printed in a format approved by the Division.
  - 2) 7 days prior to a contest, the promoter shall submit to the Division a notarized printer's manifest for the amount and price of tickets printed for a contest. General admission tickets shall be consecutively numbered. When available, an electronic printout is to be given to a Division representative on the day of a contest. No tickets of admission to any contest shall be sold except tickets declared on the notarized printer's manifest.
  - 3) The total number of tickets printed shall not exceed the total seating capacity of the premises where the contest is to be held.
  - 4) The final accounting of printed tickets shall be completed by the promoter on an official ticket inventory prior to the last bout and provided to the Division. Taxes shall be assessed and collected on all tickets declared on the official ticket inventory. Taxes shall also be assessed and collected for all unaccounted tickets.
  - 5) No ticket holder shall pass through the gate without having the ticket separated from the stub or otherwise accounted for. However, members of the news media assigned to work by their regular employers, as approved by the promoter, policemen and firemen in uniform and on duty, and persons of similar vocation are admitted free and the promoter shall not be liable for any tax for their admission.

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- 6) When it is determined that a promoter has made an incorrect statement of gate receipts, has used tickets not appearing on the inventory, or by any subterfuge purports to reduce the amount of tax due under the law, discipline of the promoter's license and forfeiture of bond may occur.

**Section 1371.240 Prohibited Contests**

- a) Any licensee holding or promoting a contest for which no permit has been issued by the Division, or participating in such a contest as a promoter, contestant, second, referee, judge, manager, trainer, announcer or timekeeper, may be subject to discipline pursuant to Section 16 of the Act.
- b) The Division shall enter an order of cease and desist to any individual or entity involved in a contest for which no permit has been issued by the Division. If the individual or entity fails to comply with the order, the Division may send the order to the Attorney General or State's Attorney for civil or criminal enforcement with respect to prohibited contests, or the Division may file a complaint for imposition of civil penalties for violation of the Act.

**Section 1371.250 Disciplinary Action**

- a) All licensees may be disciplined for any violation of the Act or this Part.
- b) The administration or use of controlled substances and other performance enhancing drugs, either before or during a match, to or by any contestant is prohibited. Any contestant violating this Section shall be subject to disqualification.
- c) The Division may request, at any time, that a contestant submit to a drug screen for controlled substances and other performance enhancing drugs at the contestant's expense or at the promoter's expense when the test is ordered for a permitted contest. If the drug screen indicates the presence within the contestant of controlled substances or other performance enhancing drugs for which the contestant does not have a valid prescription, or if the contestant refuses to submit to the test, the Division may suspend or revoke the license of the contestant, or the Division may impose a fine upon the contestant, or both.
- d) The Division or its designee may order the purse withheld from a contestant for

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failing to perform to the best of his or her ability. The contestant may request a hearing in writing within 15 days after the contest to determine the amount of the purse, if any, that will be transferred to the contestant. The purse shall be returned to the promoter 15 days after the contest if no hearing is requested. The hearing shall be held within 30 days after the date the request is received by the Division. When a hearing is held, any amount of purse not awarded to the contestant shall be returned to the promoter.

- e) If a licensed contestant competes in any event not sanctioned and approved by the Division, or any amateur event, he or she may be immediately suspended.
- f) A contestant who fails to appear in a contest for which he or she signed a bout agreement shall be suspended immediately. The Division may terminate the suspension if the contestant is released from the bout agreement by mutual agreement.
- g) If, prior to a bout, a contestant files a certificate from a physician stating that the contestant is unable to fulfill a bout agreement because of physical disability, the contestant shall be immediately placed on a medical suspension and be reinstated from the suspension in the same manner as provided for in Section 25.1 of the Act.
- h) A promoter's license may be suspended for failure to pay taxes as required by Section 13 of the Act. Any promoter whose license has been suspended shall not promote a contest until he or she has shown the Division proof that any outstanding taxes have been paid in full. A promoter's license may be subject to further discipline for late payment of taxes.
- i) A promoter's license may be suspended until payment of fees is made to contestants and other participants pursuant to Section 1371.80. Any promoter whose license has been suspended pursuant to this subsection shall not promote a contest until he or she has shown the Division proof that any outstanding payments of fees to contestants and other participants have been paid in full. A promoter's license may be subject to further discipline for late payment of fees.
- j) A promoter, contestant, manager, second or representative of the contestant may not verbally harass, physically abuse, throw any object at, or make illicit gestures toward any person present at the venue, including, but not limited to, officials, inspectors or other Division representatives before, during or after any contest.

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Any promoter, contestant, manager, second or any representative of the contestant violating this Part may be immediately suspended.

- k) Throwing the mouthpiece into the audience during or after the contest may result in an immediate suspension. This would be in addition to any other discipline that is imposed.
- l) No contestant or promoter may display any type of entrance theme that includes music, video or any type of physical display that contains any profanity or any derogatory ethnic remarks. Anyone violating this subsection may be subject to discipline.
- m) In instances in which the Division immediately suspends or revokes a license under subsection (c), (e), (f), (h), (i), (j), (k) or (l), a hearing must be commenced within 30 days after the suspension and completed without appreciable delay. A licensee suspended pursuant to the aforementioned subsections may be subject to further discipline for violation of the Act and/or this Part.

**Section 1371.260 Suspensions and Mandatory Rest Periods**

- a) The Division shall report all contestants' suspensions and mandatory rest periods to Fight Fax (the official recordkeeper designated by the Association of Boxing Commissions (ABC)) or other recordkeeper designated by the Division.
  - 1) Physician's suspension:
    - A) A licensee who is determined by the physician to be unfit to compete or officiate shall be immediately suspended until it is shown that he or she is fit for further competition or officiating.
    - B) Prior to reinstatement, any contestant suspended for his or her medical protection shall satisfactorily pass a medical examination upon the direction of the Division. The examining physician may require any necessary medical procedures during the examination.
    - C) Failure to report or comply with the post-contest examination by the physician will result in a minimum suspension of 90 days.
  - 2) Knockout suspension: In the event of a knockout (KO) by a blow to the

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head, the contestant shall be immediately suspended for a period of not less than 45 days. The Division may also suspend a contestant from contact sparring.

- 3) Technical Knockout suspension: In the event of a technical knockout (TKO), the contestant shall be immediately suspended for a period of not less than 30 days. The Division may also suspend a contestant from contact sparring.
  - 4) Disqualification suspension: In the event a contestant is disqualified for any reason, that contestant shall be suspended for a minimum of 45 days. The Division may also suspend a contestant from contact sparring.
- b) A contestant shall not compete until 7 days have elapsed from his or her last bout. The 7 day period starts the day following the event in which he or she competed.

**Section 1371.270 Renewals**

- a) Every license issued under the Act shall expire on September 30 of each odd numbered year. The holder of a license may renew the license during the month preceding the expiration date by paying the required fee and completing any required forms.
- b) Licensed contestants shall provide with their renewal proof of completion of a recent physical examination by a physician as specified in Sections 1371.300 and 1371.400. Failure to provide the proof shall result in expiration of the license. No contestant may participate in any contest while his or her license is expired.
- c) A contestant over age 35 who has not competed in a contest within the last 36 months, or other period determined by the Division, may be required to appear before the Board to determine his or her fitness to participate in a contest.
- d) It is the responsibility of each licensee to notify the Division of any change of address in writing within 30 days after the change becomes effective. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to renew a license.
- e) A licensee who changes his or her name must notify the Division in writing within 30 days after the change becomes effective. Licensees are required to

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submit legal documentation proving the name change.

**Section 1371.280 Granting Variances**

- a) The Director may grant variances from this Part in individual cases when he or she finds that:
  - 1) The provision from which the variance is granted is not statutorily mandated;
  - 2) No party will be injured by the granting of the variance; and
  - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the Board of the granting of the variance, and the reasons for granting the variance, at the next meeting of the Board.

## SUBPART B: BOXING

**Section 1371.300 Application for a License as a Contestant**

- a) The Division may deny an application for licensure if the applicant fails to meet the qualifications specified in this Section, fails to pass a required examination, or otherwise fails to complete training to the satisfaction of the Division.
- b) No contestant shall participate in a contest without being licensed.
- c) Contestants shall be separately licensed for either boxing or martial arts/mixed martial arts.
- d) An applicant for a license shall complete an application provided by the Division, which shall include the fee set forth in Section 1371.20.
- e) An applicant must be at least 18 years of age.
- f) An applicant must show proof of State residency.

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- g) Disclose in writing, on a form provided by the Division, a complete medical history including any prior or existing medical conditions.
- h) All costs involved with medical examinations and/or tests required in this Section shall be the responsibility of the applicant.
- i) Licensees shall comply with all applicable federal regulations governing boxing.
- j) Proof of good moral character. The applicant shall notify the Division of any criminal convictions other than minor traffic violations. The Division may consider any criminal convictions or discipline in another jurisdiction in which the applicant is licensed when determining if the applicant is qualified for licensure.
- k) When the accuracy or sufficiency of any submitted documentation of stated experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure may be requested to:
  - 1) Provide the necessary information; and/or
  - 2) Appear for an interview before the Board to clarify information or clear up any discrepancies or conflicts in information.
- l) All contestants must submit proof of completion of a physical examination by a physician. All physical exam and laboratory results submitted shall be no more than 6 months old from the date of application. The examining physician shall conduct examinations and tests necessary to attest to the fitness of the applicant to engage in contests. 48 hours before competing in any contest, each contestant shall provide to the Division certified copies of medical tests performed by a laboratory, which shall include, but not be limited to:
  - 1) EKG results with the attending physician's findings;
  - 2) Chest x-ray results with the attending physician's findings;
  - 3) CT/MRI brain scan report (without contrast) with the attending physician's findings;

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- 4) A urine, blood or other test indicating no prohibited drugs;
  - 5) A blood test that verifies the applicant is free from sexually transmitted diseases;
  - 6) A blood test that verifies the applicant is HIV negative;
  - 7) A blood test that verifies the applicant is Hepatitis B (HBsAg) negative;
  - 8) A blood test that verifies the applicant is Hepatitis C (HCVAb) negative;
  - 9) An eye examination by a physician licensed to practice medicine in all its branches who specializes in ophthalmology; and
  - 10) Any other test a physician may require.
- m) Physical examinations of female contestants shall also include a pelvic, abdominal and breast exam.
- n) **First Time Contestant (Amateur Contestant Desiring to Turn Professional)**  
In addition to the application requirements set forth in subsections (c) through (m), the application for licensure by a first time contestant shall be completed on forms provided by the Division and shall include:
- 1) A government issued photo identification (e.g., driver's license, passport);
  - 2) Proof of age (e.g., driver's license or copy of birth certificate);
  - 3) Social Security Number or tax identification number, as appropriate; and
  - 4) Documentation of 2 years of boxing experience as an amateur, including the total number of bouts and a breakdown of wins and losses. The applicant shall have a minimum of 20 bouts or demonstrate exceptional fighting ability as determined by the Division.
- o) **Professional Contestant Licensed in Other Jurisdictions**  
In addition to the application requirements set forth in subsections (c) through (k), (l)(6) through (10), and (m), the application for licensure by a contestant licensed

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in another jurisdiction shall be completed on forms provided by the Division and shall include:

- 1) A federal identification card;
  - 2) Proof of active licensure in another jurisdiction;
  - 3) Proof of age (e.g., driver's license or copy of birth certificate); and
  - 4) Social Security Number or tax identification number, as appropriate.
- p) A contestant over age 35 who has not competed in a contest within the last 36 months, or as otherwise determined by the Division, may be required to appear before the Board to determine his or her fitness to participate in a contest.

**Section 1371.310 Application for a License as a Timekeeper, Referee or Judge**

- a) The Division may deny an application for licensure if the applicant fails to meet the qualifications specified in this Section, fails to pass a required examination, or otherwise fails to complete training to the satisfaction of the Division.
- b) All timekeepers, referees or judges shall be licensed.
- c) Timekeepers, referees and judges shall be separately licensed for either boxing or martial arts/mixed martial arts.
- d) An applicant for a license shall complete an application provided by the Division, which shall include the fee set forth in Section 1371.20.
- e) An applicant must be at least 18 years of age.
- f) All fees involved with medical examinations and/or tests required in this Section shall be the responsibility of the applicant.
- g) Licensees shall comply with all applicable federal regulations governing boxing.
- h) Proof of good moral character. The applicant shall notify the Division of any criminal convictions other than minor traffic violations. The Division may consider any criminal convictions or discipline in another jurisdiction in which

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the applicant is licensed when determining if the applicant is qualified for licensure.

- i) When the accuracy or sufficiency of any submitted documentation of stated experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure may be requested to:
  - 1) Provide the necessary information; and/or
  - 2) Appear for an interview before the Board to clarify information or clear up any discrepancies or conflicts in information.
- j) The application for licensure as a referee, judge or timekeeper shall be completed on forms provided by the Division and shall include:
  - 1) A government issued photo identification (e.g., driver's license, passport);
  - 2) An eye examination by a physician licensed to practice medicine in all its branches who specializes in ophthalmology, dated no more than 6 months prior to the date of application; and
  - 3) Documented experience in boxing as a referee, judge or timekeeper, as appropriate, which shall include but not be limited to:
    - A) 5 of the last 7 years in amateur or professional boxing;
    - B) 3 of the last 5 years in Golden Glove Tournaments, United States Amateur Boxing Federation, Inc. Tournaments or other Division approved tournaments;
    - C) 2 of the last 3 years in national tournaments; or
    - D) proof of active licensure in another jurisdiction.
- k) In addition to the other requirements of this Section, applicants for licensure as a referee shall provide proof of a physical examination by a physician, dated no more than 6 months prior to the date of application, to determine whether the applicant is in good physical condition and has the speed and reflexes necessary

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for the protection of both fighters, and that he or she has corrected or uncorrected visual acuity of at least 20/40 in both eyes.

**Section 1371.320 Classes and Weights of Contestants**

- a) In accordance with generally accepted boxing practices, contestants shall be classified under the following classifications:
- 1) Light Flyweight not over 108 pounds
  - 2) Flyweight over 108 to 112 pounds
  - 3) Bantamweight over 112 to 118 pounds
  - 4) Super Bantamweight over 118 to 122 pounds
  - 5) Featherweight over 122 to 126 pounds
  - 6) Super Featherweight over 126 to 130 pounds
  - 7) Lightweight over 130 to 135 pounds
  - 8) Super Lightweight over 135 to 140 pounds
  - 9) Welterweight over 140 to 147 pounds
  - 10) Super Welterweight over 147 to 154 pounds
  - 11) Middleweight over 154 to 160 pounds
  - 12) Super Middleweight over 160 to 168 pounds
  - 13) Light Heavyweight over 168 to 175 pounds
  - 14) Cruiserweight over 175 to 200 pounds
  - 15) Heavyweight over 200 pounds

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- b) Any contestant's change in weight class must be approved by the Division.
- c) Contestants shall only fight contestants in their own weight class unless permission is granted by the Division.
- d) For title bouts, contestants may weigh no more than 10 pounds heavier on the day of the bout or contest than their weight at the weigh-in.
- e) At the weigh-in, no contestant may lose more than 3 pounds in less than a 2 hour period. This rule applies to a second day weigh-in also. This does not apply to light heavyweight class and above.

**Section 1371.330 Attire and Equipment for Contestants**

- a) Attire and Equipment for Contestants  
All contestants shall comply with the following:
  - 1) Contestants shall wear athletic shorts that do not extend below the knee, as specified in the bout agreement.
  - 2) Each contestant shall have available for the contest 2 uniforms of contrasting colors, consisting of a body shirt, athletic jersey and shorts. No leotard or other such costume is permitted.
  - 3) Shirts or gis shall not be worn by a contestant during a bout.
  - 4) Knee pads, elbow pads, chest protectors (for male contestants), and shin guards shall not be allowed.
  - 5) Shoes shall be of soft material and not fitted with spikes, cleats, hard soles or hard heels.
  - 6) All contestants shall wear an individually fitted mouthpiece, which shall be subject to examination and approval by the Division.
    - A) all contestants shall have available 2 mouthpieces; and
    - B) a round will not begin until both contestants have their respective mouthpieces in place.

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- 7) Male contestants shall wear a foul-proof groin protector.
  - 8) Female contestants:
    - A) shall wear a breast protector during the contest with both contestants wearing the same type. The breast protector shall be subject to examination and approval by the Division; and
    - B) may wear a pelvic protector at the option of the contestant.
  - 9) A contestant shall be prohibited from wearing any attire or equipment that contains any metal substance.
  - 10) All equipment and attire are subject to approval by the Division. An inspector or other Division representative may direct a contestant to change any attire or equipment that he or she determines gives unfair advantage or is a threat to the health, safety or welfare of the other contestant or the public.
- b) Bandages/Handwraps  
In all weight classes, seconds must adhere to the following for wrapping hands:
- 1) Hand bandages shall be restricted to 15 yards of soft gauze bandage not more than 2 inches in width, held in place by not more than 6 feet of surgeon's tape, one half inch in width, for each hand. Any deviation must have the approval of the Division official.
  - 2) Bandages shall be evenly distributed across the hand.
  - 3) The binding of surgeon's tape must not be applied within one half inch of the knuckles of the contestant's hand.
  - 4) Bandages and tape shall be placed on the contestant's hand in the dressing room prior to the bout in the presence of the inspector. The opposing contestant for a title may also witness the bandaging of the opponent's hands. This privilege may be waived.

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- 5) The Division official shall approve all bandages and taping prior to gloves being placed on any contestant and after gloves are removed. Under no circumstances are gloves to be placed on the hands of a contestant before approval by the inspector.
- c) Gloves
- 1) Contestants competing against each other in the same bout shall wear gloves that are of the same weight.
  - 2) The brand of glove used in a contest must be approved by the Division prior to the contest. Gloves shall be whole, clean and in good condition. Broken gloves are prohibited during any bout or contest.
  - 3) Gloves that are padded in the palm or fingertip area are prohibited.
  - 4) All gloves shall be inspected and approved by the inspector prior to each bout. The inspector or a designee of the Division may inspect gloves at any time.
  - 5) All gloves shall be furnished by the promoter. Webbed gloves with attached thumbs must be worn and must be approved by the Division or its designee. For all title bouts, gloves shall be new. Promoters must have extra sets of gloves in each size used during the contest to be used in case gloves are broken or in any way damaged during the course of a bout. Promoters are prohibited from furnishing gloves provided by a contestant.
    - A) Gloves shall be appropriate in weight for the contestants and shall be no less than 8 ounces and no more than 12 ounces in weight.
    - B) Male boxing contestants who are over 147 pounds shall wear gloves that are, at minimum, 10 ounces in weight.
    - C) Male boxing contestants who are 147 pounds and under shall wear gloves that are, at minimum, 8 ounces in weight.
    - D) Female contestants shall wear gloves that weigh at least 10 ounces.

**Section 1371.340 Structure of the Ring for Contests**

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- a) Size of the Ring
  - 1) The ring shall be square shaped.
  - 2) The ring for a contest shall be no less than 16 x 16 feet and no larger than 24 x 24 feet within the ropes. The ring floor shall be constructed of at least a 1 inch base of wood-based board padded with at least a 1 inch layer of foam rubber or foam rubber equivalents. There must be a top covering of canvas, duck or similar material tightly stretched and attached to the ring platform.
  - 3) The ring shall have 4 posts not less than 3 inches in diameter that extend from the floor of the ring to a height of no less than 48 inches and no more than 58 inches. The posts shall be securely anchored and adequately padded.
- b) The ring shall have, at minimum, 4 ropes of cotton, hemp, nylon or comparable material, each not less than one inch in diameter. The ropes shall be padded with a soft material.
- c) The floor of the ring shall not be more than 4 feet above the floor on which it is standing, and shall be supplied with steps for the entry and departure of contestants and officials.
- d) The platform of the ring must extend beyond the ropes for a distance of at least 2 feet.
- e) The ring shall be kept clear of obstructions.

**Section 1371.350 Intentional and Accidental Fouls and Injuries**

- a) Fouls
  - 1) If one of the contestants falls to the ring floor, or otherwise indicates an unwillingness to continue because of a claim of a low-blow foul, and the referee does not agree, the contest may be terminated, and the referee may award the contest to the opponent.

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- 2) In the case of a referee determined accidental foul, the referee shall determine whether the contestant who has been fouled can continue. If the contestant's chances have not been seriously jeopardized as a result of the foul, the referee may order the bout continued after an interval of not more than 5 minutes rest.
  - 3) The following actions in a boxing bout or contest shall be considered fouls:
    - A) Hitting below the belt;
    - B) Hitting an opponent who is down;
    - C) Holding an opponent with one hand while hitting with the other;
    - D) Holding or clinching after the referee orders the contestants to break, or hitting on the break;
    - E) Wrestling or kicking;
    - F) Butting with the head or shoulder;
    - G) Hitting with open gloves, hitting with the butt of the hand, wrist or elbow and all back hand blows;
    - H) Roughing on the ropes;
    - I) Hitting in the back or kidney area;
    - J) Hitting on the back of the head or neck;
    - K) Jabbing the opponent's eyes with the thumb of the glove;
    - L) Hitting after the bell has sounded ending a round; and
    - M) Conduct that in the opinion of the referee is unsportsmanlike.
- b) Injuries

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- 1) The referee, at his or her discretion, may request that the physician examine a contestant during the bout. Should the examination occur during the course of a round, the clock shall be stopped until the examination is completed. The physician may recommend that the referee stop the bout, in which case the referee shall render the appropriate decision.
  - 2) In the event of serious cuts or injuries, the referee shall summon the physician who shall advise whether the bout should be stopped.
  - 3) A referee shall consider the decision of the physician.
  - 4) The referee shall be authorized to determine if injuries were produced by a foul, and if the foul was intentional or accidental.
- c) Injuries Sustained as a Result of Fouls
- 1) Intentional Fouls
    - A) If an intentional foul causes an injury, and the injury is severe enough to terminate the bout immediately, the contestant causing the injury shall lose by disqualification.
    - B) If an intentional foul causes an injury and the bout is allowed to continue, the referee will notify the Division representative and may deduct points from the contestant who caused the foul. Point deductions for intentional fouls will be mandatory.
    - C) If an intentional foul causes an injury and the injury results in the bout being stopped in a later round, the injured contestant will win by technical decision if he or she is ahead on the score cards, or the bout will result in a technical draw if the injured boxing contestant is behind or even on the score cards.
    - D) If a contestant injures himself or herself while attempting to intentionally foul his or her opponent, the referee will not take any action in his or her favor, and this injury will be the same as one produced by a fair blow.

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- E) If the referee believes that a contestant has conducted himself or herself in an unsportsmanlike manner, the referee may stop the bout and disqualify the contestant.
- 2) Accidental Fouls
    - A) If an accidental foul causes an injury severe enough for the referee to stop the bout immediately, the bout will result in a no decision if stopped before 4 completed rounds. 4 rounds are complete when the bell rings signifying the end of the fourth round.
    - B) If an accidental foul causes an injury severe enough for the referee to stop the bout immediately, after 4 rounds have occurred, the bout will result in a technical decision, awarded to the contestant who is ahead on the score cards at the time the bout is stopped.
    - C) Partial or incomplete rounds will be scored. If no action has occurred, the round should be scored as an even round. This is at the discretion of the judges.
  - 3) A contestant who is hit with an accidental low blow must continue after a reasonable amount of time, but no more than 5 minutes, or he or she will lose the fight.
- d) Loss of mouthpiece. When a mouthpiece is knocked out of a contestant's mouth, the referee may call time when he or she deems that there is a lull in action (not in the heat of battle). The referee may have the second replace the mouthpiece. The referee may call a time out based on loss of a mouthpiece one time per contestant during the bout without points being deducted from the contestant whose mouthpiece came out, at the discretion of the referee.

**Section 1371.360 Rounds**

- a) Non-Title Bouts. Each non-title bout shall be no fewer than 4 rounds and no more than 12 rounds of 3 minutes duration, with a 1-minute rest period between rounds.
- b) Title Bouts. Each title bout shall be no fewer than 8 rounds and no more than 12 rounds of 3 minutes duration, with a 1-minute rest period between rounds.

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- c) Women's boxing bouts shall have 2-minute rounds.

**Section 1371.370 Types of Bout Results**

- a) A contestant shall be considered by the referee to be knocked down when any part of his or her body other than the feet is on the fighting area floor, or if the contestant is hanging over the ropes and unable to defend himself or herself.
- b) A contestant hanging over the ropes is not officially "down" until so pronounced by the referee.
- c) When a contestant is knocked down, the referee shall order the opponent to retire to the farther neutral corner of the ring, pointing to the corner, and immediately pick up the count from the timekeeper and continue counting over the contestant who is down.
- d) The referee shall announce the passing of the seconds, audibly, accompanying the count with motions of his or her arm, the downward motion indicating the end of each second.
- e) There shall be a mandatory 8-count. Any contestant who is knocked down shall not be allowed to resume boxing until after the referee has finished counting 8. The contestant may take this count either on the floor or standing.
- f) 3 knockdowns in one round shall be regarded as justifiable reason for the referee to halt a contest. The referee may allow a fight to continue after a contestant has been knocked down 3 times if, in his or her judgment, the contestant is able to continue.
- g) If the contestant taking the count is still down when the referee calls the count of 10, the referee shall wave both arms to indicate that the contestant has been knocked out and has lost the bout.
- h) Should the opponent fail to stay in the neutral corner, the referee shall cease counting until the opponent has returned to it; the referee will then go on with the count from the point at which it was interrupted.
- i) Contestants who have been knocked out shall be kept lying down until they have recovered. When a contestant is knocked out, no one shall touch him or her,

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except that the referee shall remove the contestant's mouthpiece, until the ringside physician enters the ring and personally attends the contestant and issues necessary instructions to the contestant's seconds.

- j) The bell does not save the contestant in any round.
- k) If any contestant fails or refuses to resume fighting when the bell sounds starting the next round, the referee may award a technical knockout to the opponent as of the last completed round plus one second of the current round.
- l) Cessation of contest because of unexpected reasons. Should unexpected or accidental reasons determine the cessation of a contest before completion of the scheduled rounds, a technical decision shall be awarded to the contestant who is ahead in points on the scorecard of judges and the referee, provided that at least 4 rounds have been completed when the cessation occurs. If the cessation occurs before 4 rounds have been completed, the decision will be a technical draw.
- m) No manager or second shall bring about the termination of a contest by tossing in a towel. The manager or second shall notify the physician or referee that the bout needs to be stopped. Seconds cannot walk into the ring. The chief second may mount the apron of the fighting area and attract the referee's attention, indicating the retirement of the contestant.

**Section 1371.380 State of Illinois Boxing Championships**

- a) All title bouts will be 8, 10 or 12 rounds, each of which is 2 or 3 minutes, with 1 minute of rest between rounds.
- b) Scoring will be the 10-point must system as described in Section 1371.210. The scoring will be done by 3 judges. The referee will be a non-scoring official.
- c) In the event a contestant is knocked down, there will be a mandatory 8-count. There is no standing 8-count.
- d) The bout will be stopped any time the referee or physician considers it necessary for the safety of either contestant.
- e) The weigh-in will be set by the Division. The champion and challenger will have 2 hours after the initial weigh-in to make weight; if either fails to make weight, no

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title will be at stake.

- f) A champion must keep his or her contestant license up to date. He or she will have 30 days after the expiration date, as set forth in Section 1371.270, to renew his or her license. If the license is not renewed, the contestant's title will be vacated.
- g) A champion must defend or have a contract to defend his or her title every 6 months or his or her title will be vacated.
- h) If a champion is convicted of any felony, his or her title will be declared vacant.
- i) If a champion wins a major title, such as International Boxing Federation (IBF), World Boxing Organization (WBO), World Boxing Council (WBC), World Boxing Association (WBA), North American Boxing Federation (NABF), North American Boxing Organization (NABO), or United States Boxing Association (USBA), he or she must relinquish his or her State title.
- j) All championship bouts must be approved by the Division.
- k) A 10% fee above the normal scale will be paid to the officials who work the championship bout.
- l) The championship belt must be provided by the promoter for a new champion.
- m) It is the responsibility of the champion's manager to contact a promoter for the defense of the champion's title.
- n) There will be no permit fee for the championship bout.
- o) Gloves
  - 1) Male contestants who are over 147 pounds shall wear thumb web gloves that are, at minimum, 10 ounces in weight.
  - 2) Male contestants who are 147 pounds and under shall wear thumb web gloves that are, at minimum, 8 ounces in weight.
  - 3) Female contestants shall wear gloves that weigh at least 10 ounces.

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- p) A contestant must be licensed in Illinois and residing in Illinois or an adjacent state, as demonstrated by providing a diver's license, a utility bill or a lease in the contestant's name, or similar documentation, before he or she is eligible to be rated. He or she must also have at least one fight every 6 months.

## SUBPART C: MARTIAL ARTS OR MIXED MARTIAL ARTS

**Section 1371.400 Application for a License as a Contestant**

- a) The Division may deny an application for licensure if the applicant fails to meet the qualifications specified in this Section, fails to pass a required examination, or otherwise fails to complete training to the satisfaction of the Division.
- b) No contestant shall participate in a contest without being licensed.
- c) Contestants shall be separately licensed for either boxing or martial arts/mixed martial arts.
- d) An applicant for a license shall complete an application provided by the Division, which shall include the fee set forth in Section 1371.20.
- e) An applicant must be at least 18 years of age.
- f) An applicant must show proof of State residency.
- g) Disclose in writing, on a form provided by the Division, a complete medical history including any prior or existing medical conditions.
- h) All fees involved with medical examinations and/or tests required in this Section shall be the responsibility of the applicant.
- i) Licensees shall comply with all applicable federal regulations governing martial arts or mixed martial arts.
- j) Proof of good moral character. The applicant shall notify the Division of any criminal convictions other than minor traffic violations. The Division may consider any criminal convictions or discipline in another jurisdiction in which

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the applicant is licensed when determining if the applicant is qualified for licensure.

- k) When the accuracy or sufficiency of any submitted documentation of stated experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure may be requested to:
  - 1) Provide the necessary information; and/or
  - 2) Appear for an interview before the Board to clarify information or clear up any discrepancies or conflicts in information.
  
- l) All contestants must submit proof of completion of a physical examination by a physician. The examining physician shall conduct examinations and tests necessary to attest to the fitness of the applicant to engage in contests. No less than 48 hours before competing in any contest, each contestant shall provide to the Division certified copies of medical tests performed by a laboratory; all physical exam and laboratory results submitted shall be no more than 6 months old from the date of submission. These submissions shall include, but not be limited to:
  - 1) EKG results with the attending physician's findings;
  - 2) Chest x-ray results with the attending physician's findings;
  - 3) CT/MRI brain scan report (without contrast) with the attending physician's findings;
  - 4) A urine, blood or other test indicating no prohibited drugs;
  - 5) A blood test that verifies the applicant is free from sexually transmitted diseases;
  - 6) A blood test that verifies the applicant is HIV negative;
  - 7) A blood test that verifies the applicant is Hepatitis B (HBsAg) negative;
  - 8) A blood test that verifies the applicant is Hepatitis C (HCVAb) negative;

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- 9) An eye examination by a physician licensed to practice medicine in all its branches who specializes in ophthalmology; and
  - 10) Any other test a physician may require.
- m) Physical examinations of female contestants shall also include a pelvic, abdominal and breast exam.
- n) **First Time Contestant (Amateur Contestant Desiring to Turn Professional)**  
In addition to the application requirements set forth in subsections (c) through (m), the application for licensure by a first time contestant shall be completed on forms provided by the Division and shall include:
- 1) A government issued photo identification (e.g., driver's license, passport);
  - 2) Proof of age (e.g., driver's license or copy of birth certificate);
  - 3) Social Security Number or tax identification number, as appropriate;
  - 4) For amateur contestants becoming professional contestants, documentation of 2 years of martial arts or mixed martial arts experience as an amateur, including the total number of bouts and a breakdown of wins and losses. The applicant shall have a minimum of 5 bouts or demonstrate exceptional fighting ability as determined by the Division.
- o) **Professional Contestant Licensed in Other Jurisdictions**  
In addition to the application requirements set forth in subsections (c) through (k), (l)(6) through (10) and (m), the application for licensure by a contestant licensed in another jurisdiction shall be completed on forms provided by the Division and shall include:
- 1) A federal identification card;
  - 2) Proof of active licensure in another jurisdiction;
  - 3) Proof of age (e.g., driver's license or copy of birth certificate); and
  - 4) Social Security Number, or tax identification number as appropriate.

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- p) A contestant over age 35 who has not competed in a contest within the last 36 months, or as otherwise determined by the Division, may be required to appear before the Board to determine his or her fitness to participate in a contest.

**Section 1371.410 Application for a License as a Timekeeper, Referee or Judge**

- a) The Division may deny an application for licensure if the applicant fails to meet the qualifications specified in this Section, fails to pass a required examination, or fails to otherwise complete training to the satisfaction of the Division.
- b) All timekeepers, referees or judges shall be licensed.
- c) Timekeepers, referees and judges shall be separately licensed for either boxing or martial arts/mixed martial arts.
- d) An applicant for a license shall complete an application provided by the Division, which shall include the fee set forth in Section 1371.20.
- e) An applicant must be at least 18 years of age.
- f) All fees involved with medical examinations and/or tests required in this Section shall be the responsibility of the applicant.
- g) Licensees shall comply with all applicable federal regulations governing martial arts or mixed martial arts.
- h) Proof of good moral character. The applicant shall notify the Division of any criminal convictions other than minor traffic violations. The Division may consider any criminal convictions or discipline in another jurisdiction in which the applicant is licensed when determining if the applicant is qualified for licensure.
- i) When the accuracy or sufficiency of any submitted documentation of stated experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure may be requested to:
- 1) Provide the necessary information; and/or

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- 2) Appear for an interview before the Board to clarify information or clear up any discrepancies or conflicts in information.
- j) The application for licensure as a referee, judge or timekeeper shall be completed on forms provided by the Division and shall include:
  - 1) A government issued photo identification (e.g., driver's license, passport);
  - 2) An eye examination by a physician licensed to practice medicine in all its branches who specializes in ophthalmology, dated no more than 6 months prior to the date of application; and
  - 3) Documented experience in martial arts or mixed martial arts, which shall include but not be limited to:
    - A) 3 of the last 5 years in amateur or professional martial arts or mixed martial arts contests; or
    - B) exceptional ability as a referee, judge or timekeeper as determined by the Division; or
    - C) proof of active licensure in another jurisdiction.
- k) In addition to the other requirements of this Section, applicants for licensure as a referee shall provide proof of a physical examination by a physician, dated no more than 6 months prior to the date of application, to determine whether the applicant is in good physical condition and has the speed and reflexes necessary for the protection of both fighters, and that he or she has corrected or uncorrected visual acuity of at least 20/40 in both eyes.

**Section 1371.420 Classes and Weights of Contestants**

- a) In martial arts or mixed martial arts practices, contestants shall be classified under the following classifications:

Weight Class	Weights	Allowances
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- |     |                   |                        |          |
|-----|-------------------|------------------------|----------|
| 1)  | Straw Weight      | up to 115 pounds       | 3 pounds |
| 2)  | Flyweight         | over 115 to 125 pounds | 3 pounds |
| 3)  | Bantamweight      | over 125 to 135 pounds | 3 pounds |
| 4)  | Featherweight     | over 135 to 145 pounds | 5 pounds |
| 5)  | Lightweight       | over 145 to 155 pounds | 5 pounds |
| 6)  | Welterweight      | over 155 to 170 pounds | 5 pounds |
| 7)  | Middleweight      | over 170 to 185 pounds | 7 pounds |
| 8)  | Light Heavyweight | over 185 to 205 pounds | 7 pounds |
| 9)  | Heavyweight       | over 205 to 265 pounds | 7 pounds |
| 10) | Super Heavyweight | over 265 pounds        |          |
- b) Any contestant's change in weight class must be approved by the Division.
- c) Contestants shall only fight contestants in their own weight class unless permission is granted by the Division. With permission of the Division, a contestant can compete against a competitor in his or her own weight class or in one of the 2 higher or 2 lower weight classes.
- d) At the weigh-in, no contestant may lose more than 3 pounds in less than a 2 hour period. This does not apply to light heavyweight class and above.

**Section 1371.430 Attire and Equipment for Contestants**

- a) Attire and Equipment for Contestants  
All contestants shall comply with the following:
- 1) Contestants shall wear athletic shorts that do not extend below the knee, such as mixed martial arts shorts, grappling or fighting shorts, boxing shorts or kickboxing shorts, as specified in the bout agreement.

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- 2) Each contestant shall have available for the contest 2 uniforms of contrasting colors, consisting of a body shirt, athletic jersey and shorts. No leotard or other such costume is permitted.
- 3) Shirts or gis shall not be worn by a contestant during a bout, unless approved by the sanctioning body.
- 4) Knee pads, elbow pads, chest protectors (for male contestants), shin guards, or footwear and shoes shall not be allowed.
- 5) All contestants shall wear an individually fitted mouthpiece, which shall be subject to examination and approval by the Division:
  - A) all contestants shall have available 2 mouthpieces; and
  - B) a round will not begin until both contestants have their respective mouthpieces in place.
- 6) Male contestants shall wear a foul-proof groin protector.
- 7) Female contestants:
  - A) shall wear a breast protector during the contest with both contestants wearing the same type. The breast protector shall be subject to examination and approval by the Division; and
  - B) may wear a pelvic protector at the option of the contestant.
- 8) Taping of hands, wrists and ankles is permitted.
- 9) A contestant shall be prohibited from wearing any attire or equipment that contains any metal substance.
- 10) All equipment and attire are subject to approval by the Division. An inspector or other Division representative may direct a contestant to change any attire or equipment that he or she determines gives unfair advantage or is a threat to the health, safety or welfare of the other contestant or the public.

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## b) Bandages/Handwraps

In all weight classes, seconds must adhere to the following for wrapping hands:

- 1) The bandages/handwraps shall consist of soft gauze type cloth that is no more than 15 yards in length and 2 inches in width and held in place by no more than 6 feet of surgeon's tape, provided that the tape shall be no more than one inch in width for each hand;
- 2) The surgeon's tape shall be placed directly on each hand for protection near the wrist;
- 3) Bandages shall be evenly distributed across the hand;
- 4) The binding of surgeon's tape must not be applied within one half inch of the knuckles of the contestant's hand;
- 5) Bandages and tape shall be placed on the contestant's hand in the dressing room prior to the bout in the presence of the inspector. The opposing contestant for a title may also witness the bandaging of the opponent's hands. This privilege may be waived; and
- 6) The Division official shall approve all bandages and taping prior to gloves being placed on any contestant and after gloves are removed. Under no circumstances are gloves to be placed on the hands of a contestant before approval by the inspector.

## c) Gloves for Contestants

- 1) Contestants competing against each other in the same bout shall wear the same sized gloves.
- 2) Gloves shall be whole, clean and in good condition. Broken gloves are prohibited during any bout or contest.
- 3) Gloves that are padded in the palm or fingertip area are prohibited.

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- 4) All gloves shall be inspected and approved by the inspector prior to each bout. The inspector or a designee of the Division may inspect gloves at any time.
- 5) All gloves shall be furnished by the promoter. For all title bouts gloves shall be new. Promoters must have extra sets of gloves in each size used during the contest to be used in case gloves are broken or in any way damaged during the course of a bout. Promoters are prohibited from furnishing gloves provided by a contestant.
- 6) Gloves shall be appropriate in size for the contestant and shall be no less than 4 ounces and no more than 6 ounces in weight.

**Section 1371.440 Structure of the Fighting Area for Contests**

- a) Contests shall be held in a ring, cage or a fenced area.
- b) The fighting area shall meet the following requirements:
  - 1) The fighting area:
    - A) shall be constructed in a manner that does not pose a substantial risk to the safety or health of any person. The fighting area must be circular or have as many as eight equal sides for a contest. The fighting area shall be no smaller than 16 feet wide and no larger than 32 feet wide within the ropes, cage or fenced area;
    - B) shall have a corner with a blue designation and the corner directly across shall have a red designation;
    - C) floor shall extend at least 24 inches beyond the ropes or other barrier. The floor must be of a canvas, duck or similar material that shall be padded with at least a 1 inch layer of foam padding that shall extend over the edge of the platform of the fighting area. Vinyl or other plastic rubberized covering is prohibited. Materials that may gather in lumps or ridges during the bout or contest are prohibited;
    - D) platform shall be no more than 4 feet above the floor on which it is

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standing and must have suitable steps or ramps for use by officials and the contestants;

- E) shall have 5 fighting area ropes, when fighting area ropes are used, not less than 1 inch in diameter and wrapped in soft material. The lowest rope must be no higher than 12 inches from the fighting area floor; and
  - F) must not be obstructed by any object, including, without limitation, a triangular border, on any part of the fighting area floor.
- 2) When fighting area ropes are used, the post:
- A) must be made of metal no less 3 inches and not more than 6 inches in diameter, and must be properly padded in a manner approved by the Division; and
  - B) must be 18 inches away from the fighting area ropes.
- 3) The fence or cage specifications for martial arts and mixed martial arts are:
- A) the fence or cage shall be made of material that will prevent a contestant from falling out or breaking through the fighting area onto the floor beneath the fighting area or onto spectators. The enclosure may be composed of vinyl-coated chain link fencing or other similar material;
  - B) any exposed metal on the interior of the fenced or caged area must be covered and padded in a manner approved by the inspector or Division representative. The covering shall not be abrasive to the contestants;
  - C) any metal parts used to reinforce the fenced or caged area enclosure shall not interfere with the safety of the contestants;
  - D) the enclosure shall provide 2 separate entries onto the fighting area canvas that are sufficient to allow easy access to the fighting area by officials and emergency personnel. The entrances must be

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padded or covered so that there is no exposed metal on the interior of the fence or caged area;

- E) The enclosure shall not obstruct or limit the supervision and regulation of the bout by officials or Division representatives; and
- F) The enclosure shall not inhibit the judging of the bout in any manner.

**Section 1371.450 Intentional and Accidental Fouls and Injuries**

- a) The following actions in a bout or contest shall be considered fouls:
  - 1) Butting with the head;
  - 2) Eye gouging of any kind;
  - 3) Biting;
  - 4) Hair pulling;
  - 5) Fishhooking;
  - 6) Groin attacks of any kind;
  - 7) Putting a finger into any orifice or into any cut or laceration of an opponent;
  - 8) Small joint manipulation;
  - 9) Striking to the spine or the back of the head;
  - 10) Striking downward using the point of the elbow;
  - 11) Throat strikes of any kind, including, without limitation, grabbing the trachea;
  - 12) Clawing, pinching or twisting the flesh;

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- 13) Grabbing the clavicle;
- 14) Kicking the head of a grounded opponent;
- 15) Kneeing the head of a grounded opponent;
- 16) Stomping a grounded opponent;
- 17) Kicking to the kidney with the heel;
- 18) Spiking an opponent to the canvas on his head or neck;
- 19) Throwing an opponent out of the ring or fenced area;
- 20) Holding the shorts or gloves of an opponent;
- 21) Spitting at an opponent;
- 22) Engaging in any unsportsmanlike conduct that causes injury to an opponent;
- 23) Holding the ropes or the fence;
- 24) Using abusive language in the ring or fenced area;
- 25) Attacking an opponent during the break;
- 26) Attacking an opponent who is under the care of the referee;
- 27) Attacking an opponent after the bell has sounded the end of the period of unarmed combat;
- 28) Flagrantly disregarding the instructions of the referee;
- 29) Timidity, including, without limitation, avoiding contact with an opponent, intentionally or consistently dropping the mouthpiece or faking an injury;
- 30) Interference by the corner; and

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- 31) Throwing in the towel during competition.
- b) Injuries
    - 1) The referee, at his or her discretion, may request that the physician examine a contestant during the bout. Should the examination occur during the course of a round, the clock shall be stopped until the examination is completed. The physician may recommend that the referee stop the bout, in which case the referee shall render the appropriate decision.
    - 2) In the event of serious cuts or injuries, the referee shall summon the physician who shall advise whether the bout should be stopped.
    - 3) A referee may consider the decision of the physician.
    - 4) The referee shall be authorized to determine if injuries were produced by a foul, and if the foul was intentional or accidental.
  - c) Injuries Sustained by Fair Blows and Fouls
    - 1) Fair Blows  
If injury is severe enough to terminate a contest, the injured contestant loses by technical knockout (TKO).
    - 2) Fouls
      - A) Intentional
        - i) If an intentional foul causes an injury, and the injury is severe enough to terminate a bout immediately, the contestant causing the injury shall lose by disqualification.
        - ii) If an intentional foul causes an injury and the bout is allowed to continue, the referee may notify the Division representative and may deduct points from the contestant who caused the foul.

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- iii) If an intentional foul causes an injury and the injury results in the bout being stopped in a later round, the injured contestant shall win by technical decision if he or she is ahead on the scorecards, or the bout shall result in a technical draw if the injured contestant is behind or even on the scorecards.
- iv) If a contestant injures himself or herself while attempting to intentionally foul his or her opponent, the referee shall not take any action in his or her favor, and this injury shall be the same as one produced by a fair blow.
- v) If the referee believes that a contestant has conducted himself or herself in an unsportsmanlike manner, the referee may stop the bout and disqualify the contestant.

## B) Accidental

- i) If the referee determines, either from his or her own observation or on the advise of the physician, that the bout may not continue because of the injury from the accidental foul, the bout will be declared a no contest if the foul occurred:
  - during the first 2 rounds of a non-championship bout; or
  - during the first 3 rounds of a championship bout.
- ii) If the referee determines, either from his or her own observation or on the advise of the physician, that the bout may not continue because of the injury from the accidental foul, the bout will be determined by scoring the completed rounds and the round in which the referee stops the bout if the foul occurred:
  - after the completion of the second round in a non-championship bout; or

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- after the completion of the third round in a championship bout.
- iii) A contestant who is hit with an accidental low-blow must continue after a reasonable amount of time, but no more than 5 minutes, or he or she may lose the bout by technical knockout.
- iv) If an injury from an accidental foul later becomes aggravated by fair blows and the referee orders the bout stopped because of the injury, the outcome must be determined by scoring the completed rounds and the round in which the referee stops the contest.
- 3) In assessing fouls, the referee shall weigh the cause, as well as the effect. If the referee has seen an unauthorized blow, strike or attack delivered that has a damaging effect, the referee may permit a rest period to the victim not to exceed 5 minutes. During the rest period, seconds may not assist or coach the injured contestant. The offending contestant shall go to a neutral corner and shall not be coached during the period.
- 4) At the discretion of the referee, the referee may give an official warning or penalty to the offending contestant for the unauthorized blow, strike or attack, and then may give the command to continue after the end of the rest period if the contestant who received the unauthorized blow, strike or attack indicates ability to continue the bout. If the injured contestant refuses to continue after a 5 minute rest period, the opponent shall be named the winner.
- 5) Repeated unauthorized blows, strikes or attacks shall be penalized with deduction of points from the offending contestant or disqualification of the offending contestant.
- 6) A contestant cannot be named the winner of a bout as the result of receiving an unauthorized blow, strike or attack, or low blow unless, in the opinion of the referee, the unauthorized blow, strike or attack was delivered deliberately and with enough force to seriously incapacitate the injured contestant so that he or she could not continue the bout. Under this condition, the offender shall be disqualified immediately.

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- 7) A fouled contestant has up to 5 minutes to recuperate.
- 8) Only the referee can assess a foul and any point deductions. If the referee does not call the foul, judges shall not make that assessment on their own.
- 9) If a foul is committed:
  - A) The referee shall call time.
  - B) The referee shall check the fouled contestant's condition and safety.
  - C) The referee shall then assess the foul to the offending contestant, deduct points and notify the seconds, judges and official scorekeeper.
- 10) If a bottom contestant commits a foul, unless the top contestant is injured, the contest will continue.
  - A) The referee will verbally notify the bottom contestant of the foul.
  - B) When the round is over, the referee will assess the foul and notify both corners, the judges and the official scorekeeper.
  - C) The referee may terminate a bout based on the severity of a foul. If the referee terminates a bout under such circumstances, the contestant committing the foul shall lose by disqualification.
- 11) When any injury is severe enough for the referee to stop the contest immediately after 2 rounds of a 3 round contest, or after 3 rounds of a 5 round contest, are complete, the results of the bout shall be determined as if the bout was completed.
- 12) Disqualification occurs after any combination of 3 fouls or if the referee determines the foul to be intentional.
- 13) Except as provided in this Section, any contestant guilty of committing a foul in a round shall be given an immediate warning and points may be

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deducted from the contestant's total score as determined by the referee. The use of foul tactics may also result in the disqualification of the contestant.

**Section 1371.460 Rounds**

- a) Non-title bouts. Each non-title bout shall be no fewer than 3 rounds of 5 minutes in length, with a 1 minute rest period between rounds and with a 10 second warning signal.
- b) Title bouts. Each title bout shall be no more than 5 rounds and no fewer than 3 rounds of 5 minutes in length, with a 1 minute rest period between rounds and with a 10 second warning signal.

**Section 1371.470 Types of Bout Results**

A bout may end under the following results:

- a) Submission:
  - 1) Tap out: when a contestant physically uses his or her hands to indicate that he or she no longer wishes to continue.
  - 2) Verbal tap out: when a contestant verbally announces to the referee that he or she does not wish to continue.
- b) Knockout (KO): Failure to rise from canvas.
- c) Technical Knockout (TKO):
  - 1) Referee stops bout because contestant can no longer defend himself or herself;
  - 2) Physician advises referee to stop the bout; or
  - 3) An injury as a result of a legal maneuver is severe enough to terminate the bout.
- d) Decision Via Scorecards:

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- 1) Unanimous decision: when all 3 judges score the bout for the same contestant.
  - 2) Split decision: when 2 judges score the bout for one contestant and one judge scores for the opponent.
  - 3) Majority decision: when 2 judges score the bout for the same contestant and one judge scores the bout a draw.
- e) Draws:
- 1) Unanimous: when all 3 judges score the bout a draw.
  - 2) Majority: when 2 judges score the bout a draw.
  - 3) Split: when all 3 judges score it differently and the score total results in a draw.
- f) Disqualification: when a contestant has intentionally fouled his or her opponent severely enough to terminate the contest or engages in other unsportsmanlike conduct.
- g) Forfeit: when a contestant fails to begin competition or prematurely ends the contest for reasons other than injury or indicating a tap out.
- h) Technical Draw: When an injury sustained during competition as a result of an intentional foul causes the injured contestant to be unable to continue and the injured contestant is even or behind on the scorecards at the time of the stoppage.
- i) Technical Decision: When the bout is prematurely stopped due to an injury and a contestant is leading on the scorecards.
- j) No Contest: When a contestant is prematurely stopped due to accidental injury and a sufficient number of rounds have not been completed to render a decision via scorecards.

## ILLINOIS GAMING BOARD

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Riverboat Gambling
- 2) Code Citation: 86 Ill. Adm. Code 3000
- 3) Section Number: 3000.636                      Adopted Action:  
Amendment
- 4) Statutory Authority: Authorized by the Riverboat Gambling Act [230 ILCS 10], specifically Sections 5 (c) (2), (3), and (13) of this Act [230 ILCS 10/5 (c) (2), (3), and (13)]
- 5) Effective date of Amendment: October 28, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the principal office and is available for public inspection.
- 9) Notice of proposal published in Illinois Register: July 18, 2008; 32 Ill. Reg. 10773
- 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 agreement letter issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
3000.100	Amendment	32 Ill. Reg. 11285; July 25, 2008
3000.600	Amendment	32 Ill. Reg. 9776; July 11, 2008
3000.660	Amendment	32 Ill. Reg. 11285; July 25, 2008
3000.661	Amendment	32 Ill. Reg. 11285; July 25, 2008
3000.670	Amendment	32 Ill. Reg. 11285; July 25, 2008

## ILLINOIS GAMING BOARD

## NOTICE OF ADOPTED AMENDMENT

- 15) Summary and purpose of amendment: Section 3000.636 establishes requirements for the distribution of coupons for complimentary chips, tokens, vouchers and cash. As previously written, this rule section currently made no reference to the distribution of coupons for electronic credits, even though these types of credits are extensively used.

The adopted amendment adds language pertaining to complimentary electronic credits that parallels exactly the existing language pertaining to complimentary chips, tokens, vouchers and cash.

- 16) Information and questions regarding this adopted amendment may be addressed to:

Michael Fries  
Chief Counsel  
Illinois Gaming Board  
160 North LaSalle Street  
Chicago, Illinois 60601

Fax No. 312/814-4143  
mfries@revenue.state.il.us

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

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE  
CHAPTER IV: ILLINOIS GAMING BOARD

PART 3000  
RIVERBOAT GAMBLING

SUBPART A: GENERAL PROVISIONS

Section	
3000.100	Definitions
3000.101	Invalidity
3000.102	Public Inquiries
3000.103	Organization of the Illinois Gaming Board
3000.104	Rulemaking Procedures
3000.105	Board Meetings
3000.110	Disciplinary Actions
3000.115	Records Retention
3000.120	Place to Submit Materials
3000.130	No Opinion or Approval of the Board
3000.140	Duty to Disclose Changes in Information
3000.141	Applicant/Licensee Disclosure of Agents
3000.150	Owner's and Supplier's Duty to Investigate
3000.155	Investigatory Proceedings
3000.160	Duty to Report Misconduct
3000.161	Communication with Other Agencies
3000.165	Participation in Games by Owners, Directors, Officers, Key Persons or Gaming Employees
3000.170	Fair Market Value of Contracts
3000.180	Weapons on Riverboat

SUBPART B: LICENSES

Section	
3000.200	Classification of Licenses
3000.210	Fees and Bonds
3000.220	Applications
3000.221	Other Required Forms
3000.222	Identification and Requirements of Key Persons
3000.223	Disclosure of Ownership and Control

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3000.224	Economic Disassociation
3000.225	Business Entity and Personal Disclosure Filings
3000.230	Owner's Licenses
3000.231	Distributions
3000.232	Undue Economic Concentration
3000.234	Acquisition of Ownership Interest By Institutional Investors
3000.235	Transferability of Ownership Interest
3000.236	Owner's License Renewal
3000.237	Renewed Owner's Licenses, Term and Restrictions
3000.238	Appointment of Receiver for an Owner's License
3000.240	Supplier's Licenses
3000.241	Renewal of Supplier's License
3000.242	Amendment to Supplier's Product List
3000.243	Bankruptcy or Change in Ownership of Supplier
3000.244	Surrender of Supplier's License
3000.245	Occupational Licenses
3000.250	Transferability of Licenses
3000.260	Waiver of Requirements
3000.270	Certification and Registration of Electronic Gaming Devices
3000.271	Analysis of Questioned Electronic Gaming Devices
3000.272	Certification of Voucher Systems
3000.280	Registration of All Gaming Devices
3000.281	Transfer of Registration (Repealed)
3000.282	Seizure of Gaming Devices (Repealed)
3000.283	Analysis of Questioned Electronic Gaming Devices (Repealed)
3000.284	Disposal of Gaming Devices
3000.285	Certification and Registration of Voucher Validation Terminals

## SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

Section	
3000.300	General Requirements – Internal Control System
3000.310	Approval of Internal Control System
3000.320	Minimum Standards for Internal Control Systems
3000.330	Review of Procedures (Repealed)
3000.340	Operating Procedures (Repealed)
3000.350	Modifications (Repealed)

## SUBPART D: HEARINGS ON NOTICE OF DENIAL,

## ILLINOIS GAMING BOARD

## NOTICE OF ADOPTED AMENDMENT

RESTRICTION OF LICENSE, PLACEMENT ON BOARD EXCLUSION LIST OR  
REMOVAL FROM BOARD EXCLUSION LIST OR SELF-EXCLUSION LIST

Section	
3000.400	Coverage of Subpart
3000.405	Requests for Hearings
3000.410	Appearances
3000.415	Discovery
3000.420	Motions for Summary Judgment
3000.424	Subpoena of Witnesses
3000.425	Proceedings
3000.430	Evidence
3000.431	Prohibition on Ex Parte Communication
3000.435	Sanctions and Penalties
3000.440	Transmittal of Record and Recommendation to the Board
3000.445	Status of Applicant for Licensure or Transfer Upon Filing Request for Hearing

## SUBPART E: CRUISING

Section	
3000.500	Riverboat Cruises
3000.510	Cancelled or Disrupted Cruises

## SUBPART F: CONDUCT OF GAMING

Section	
3000.600	Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards
3000.602	Disposition of Unauthorized Winnings
3000.605	Authorized Games
3000.606	Gaming Positions
3000.610	Publication of Rules and Payout Ratio for Live Gaming Devices
3000.614	Tournaments, Enhanced Payouts and Give-aways
3000.615	Payout Percentage for Electronic Gaming Devices
3000.616	Cashing-In
3000.620	Submission of Chips for Review and Approval
3000.625	Chip Specifications
3000.630	Primary, Secondary and Reserve Sets of Gaming Chips
3000.631	Tournament Chips

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- 3000.635 Issuance and Use of Tokens for Gaming
- 3000.636 Distribution of Coupons for Complimentary Chips, Tokens, [Vouchers](#), ~~and~~ Cash [and Electronic Credits](#)
- 3000.640 Exchange of Chips, Tokens, and Vouchers
- 3000.645 Receipt of Gaming Chips or Tokens from Manufacturer or Distributor
- 3000.650 Inventory of Chips
- 3000.655 Destruction of Chips, Tokens, and Vouchers
- 3000.660 Minimum Standards for Electronic Gaming Devices
- 3000.661 Minimum Standards for Voucher Systems
- 3000.665 Integrity of Electronic Gaming Devices
- 3000.666 Bill Validator Requirements
- 3000.667 Integrity of Voucher Systems
- 3000.670 Computer Monitoring Requirements of Electronic Gaming Devices
- 3000.671 Computer Monitoring Requirements of Voucher Systems

## SUBPART G: EXCLUSION OF PERSONS

- Section
- 3000.700 Organization of Subpart
- 3000.701 Duty to Exclude
- 3000.705 Voluntary Self-Exclusion Policy (Repealed)
- 3000.710 Distribution and Availability of Board Exclusion List
- 3000.720 Criteria for Exclusion or Ejection and Placement on the Board Exclusion List
- 3000.725 Duty of Licensees
- 3000.730 Procedure for Entry of Names
- 3000.740 Petition for Removal from the Board Exclusion List
- 3000.745 Voluntary Self-Exclusion Policy
- 3000.750 Establishment of a Self-Exclusion List
- 3000.751 Locations to Execute Self-Exclusion Forms
- 3000.755 Information Required for Placement on the Self-Exclusion List
- 3000.756 Stipulated Sanctions for Failure to Adhere to Voluntary Self-Exclusion
- 3000.760 Distribution and Availability of Confidential Self-Exclusion List
- 3000.770 Duties of Licensees
- 3000.780 Request for Removal from the IGB Self-Exclusion List
- 3000.782 Required Information, Recommendations, Forms and Interviews
- 3000.785 Appeal of a Notice of Denial of Removal
- 3000.786 Duties of Owner Licensees to Persons Removed from the Self-Exclusion List
- 3000.787 Placement on the Self-Exclusion List Following Removal
- 3000.790 Duties of the Board

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SUBPART H: SURVEILLANCE AND SECURITY

- Section
- 3000.800 Required Surveillance Equipment
  - 3000.810 Riverboat and Board Surveillance Room Requirements
  - 3000.820 Segregated Telephone Communication
  - 3000.830 Surveillance Logs
  - 3000.840 Storage and Retrieval
  - 3000.850 Dock Site Board Facility
  - 3000.860 Maintenance and Testing

SUBPART I: LIQUOR LICENSES

- Section
- 3000.900 Liquor Control Commission
  - 3000.910 Liquor Licenses
  - 3000.920 Disciplinary Action
  - 3000.930 Hours of Sale

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

- Section
- 3000.1000 Ownership Records
  - 3000.1010 Accounting Records
  - 3000.1020 Standard Financial and Statistical Records
  - 3000.1030 Annual and Special Audits and Other Reporting Requirements
  - 3000.1040 Accounting Controls Within the Cashier's Cage
  - 3000.1050 Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit
  - 3000.1060 Handling of Cash at Gaming Tables
  - 3000.1070 Tips or Gratuities
  - 3000.1071 Admission Tax and Wagering Tax
  - 3000.1072 Cash Reserve Requirements

SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

- Section
- 3000.1100 Coverage of Subpart

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3000.1105	Duty to Maintain Suitability
3000.1110	Board Action Against License or Licensee
3000.1115	Complaint
3000.1120	Appearances
3000.1125	Answer
3000.1126	Appointment of Hearing Officer
3000.1130	Discovery
3000.1135	Motions for Summary Disposition
3000.1139	Subpoena of Witnesses
3000.1140	Proceedings
3000.1145	Evidence
3000.1146	Prohibition of Ex Parte Communication
3000.1150	Sanctions and Penalties
3000.1155	Transmittal of Record and Recommendation to the Board

AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999 for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; proposed amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment adopted at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; adopted at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 25, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; amended at 32 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. 2967,

## ILLINOIS GAMING BOARD

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effective February 15, 2008; amended at 32 Ill. Reg. 3275, effective February 19, 2008; amended at 32 Ill. Reg. 7357, effective April 28, 2008; amended at 32 Ill. Reg. 8592, effective May 29, 2008; amended at 32 Ill. Reg. 8931, effective June 4, 2008; amended at 32 Ill. Reg. 13200, effective July 22, 2008; amended at 32 Ill. Reg. 17759, effective October 28, 2008.

## SUBPART F: CONDUCT OF GAMING

**Section 3000.636 Distribution of Coupons for Complimentary Chips, Tokens, Vouchers, ~~and Cash~~ and Electronic Credits**

- a) The holder of an Owner's license may, for specified marketing purposes, provide patrons of its Riverboat Gaming Operation coupons redeemable for complimentary Chips, Tokens, ~~or cash~~ or electronic credits with the approval of the Administrator and subject to the following requirements:
  - 1) The processes and procedures for the control, accountability and distribution of coupons for Chips, Tokens, ~~or cash~~ or electronic credits and for the redemption of such coupons are provided for in the holder of an Owner's license's Internal Control System and in conformance with the Internal Control System;
  - 2) The aggregate dollar value of Chips, Tokens, ~~or cash~~ or electronic credits authorized for complimentary purposes is not excessive in light of the specific marketing objectives of the licensee; and
  - 3) Periodic internal audits validate the integrity and accountability of the processes and procedures authorized and required under this Section.
- b) Any provider of goods or services involved in approved coupon distribution processes and procedures under this Section may be required under this Part and the Act to be licensed as a Supplier.
- c) The holder of an Owner's license may not use Vouchers as a complimentary item or in any marketing promotion nor issue or cause to be issued Vouchers, except as authorized pursuant to Section 3000.635(d).

(Source: Amended at 32 Ill. Reg. 17759, effective October 28, 2008)

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- 1) Heading of the Part: Mentoring Program for New Principals
- 2) Code Citation: 23 Ill. Adm. Code 35
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
35.10	Amendment
35.20	Amendment
35.30	Amendment
35.40	Amendment
35.50	Amendment
35.60	Amendment
35.70	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.53a
- 5) Effective Date of Amendments: October 30, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? The rulemaking does not include an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 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: July 11, 2008; 32 Ill. Reg. 9870
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The words "in Illinois" were added in two places within Section 35.20 (see subsections (a) and (b)) in order to clarify that principals coming from other states are required to participate in this program even if they are experienced.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements were issued.

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- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Amendments: These revisions reflect ISBE staff's experience in implementing this new program. The most notable of the changes is the addition of a definition of "first-year principal" that will cause mentoring to occur during the first *full* year of service if the first *actual* year begins late in a school year. In addition, Section 35.20(e) is revised so that the administrative entity for the program can make direct payments to mentors if that is preferred by the providers. In addition, the applicability of these rules to principals coming from other states is clarified. One of the letters of support for individuals who wish to serve as mentors has been determined to be unnecessary, and the remaining changes simply involve referring to "providers" consistently rather than "mentoring entities".
- 16) Information and questions regarding these adopted amendments shall be directed to:

Patrick Murphy  
Division of Educator and School Development  
Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777-0001

217/782-7702

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

## STATE BOARD OF EDUCATION

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TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER I: STATE BOARD OF EDUCATION  
SUBCHAPTER b: PERSONNELPART 35  
MENTORING PROGRAM FOR NEW PRINCIPALS

## Section

35.10	Purpose and Applicability
35.20	Annual Program Planning; Fiscal Provisions
35.30	Requirements of the Program
35.40	Eligibility of Mentors
35.50	Training for Mentors
35.60	Approval and Role of Providers
35.70	Alternate Arrangements

AUTHORITY: Implementing and authorized by Section 2-3.53a of the School Code [105 ILCS 5/2-3.53a].

SOURCE: Emergency rules adopted at 31 Ill. Reg. 7160, effective April 25, 2007, for a maximum of 150 days; adopted at 31 Ill. Reg. 14039, effective September 20, 2007; amended at 32 Ill. Reg. 17768, effective October 30, 2008.

**Section 35.10 Purpose and Applicability**

This Part establishes requirements for the selection and training of experienced principals to serve as mentors for new principals and for new principals' participation in the mentoring program designed for them, as required by Section 2-3.53a of the School Code [105 ILCS 5/2-3.53a]. The provisions of this Part shall apply to each Illinois school district, other than a school district organized under Article 34 of the School Code [105 ILCS 5/Art. 34], and to each first-year principal in an affected school district, except as otherwise provided by Section 2-3.53a(f) of the School Code. For purposes of this Part, a "first-year principal" is an individual who either:

- a) is in his or her first school year of employment as a principal in Illinois, if the employment began prior to January 1 of that school year; or
- b) is in his or her second school year of employment as a principal in Illinois, if the employment began on or after January 1 of a prior school year.

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(Source: Amended at 32 Ill. Reg. 17768, effective October 30, 2008)

**Section 35.20 Annual Program Planning; Fiscal Provisions**

- a) No later than May 1 of each year, each district superintendent shall report to the State Superintendent of Education, or to the State Superintendent's designee, the number of first-year principals who are expected to be working in the district in the coming school year and required to participate in the mentoring program. No later than June 30, each district superintendent shall update this information with the names, administrative certificate numbers, and assigned schools of the individuals chosen.
- b) Based on the number of first-year principals expected statewide and the level of available funding foreseen, the State Superintendent shall determine whether the appropriation is likely to be sufficient to require operation of the mentoring program in the coming year. This calculation shall be based on a cost figure of \$2,000 for each first-year principal in the program plus the cost of delivering the required training, coordinating the mentors' assignments, and providing the other necessary structure and support for the program. The program shall be implemented in a given year only if sufficient funds are available based on these cost factors.
- c) As soon as possible after the level of the appropriation for a given year has been established, the State Superintendent shall notify the affected districts and the [provider training entities](#) approved under Section 35.60 of this Part regarding whether the program will operate in the coming year.
- d) No later than June 15 prior to a school year during which the program will be in operation, each experienced principal who intends to serve as a mentor shall notify the State Superintendent or designee of his or her availability, supply the required documentation of eligibility (see Section 35.40 of this Part), and, if employed in a school or in a regional office of education, provide verification in a format specified by the State Superintendent of supervisory approval for his or her participation. The State Superintendent or designee shall:
  - 1) publicize the list of approved [provider training entities](#) so that individuals who need to complete the required training can do so and be included in the pool of available mentors; and

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- 2) make the list of those who have expressed intent available to the approved [providerstraining entities](#) so that these individuals can be given priority in admission to the required training over others who may wish to complete the training simply for its value as professional development.
- e) When verification is received in accordance with the requirements of Section 35.30(h) of this Part that a mentor has provided the service required under this Part, the State Superintendent of Education or designee shall make a payment in the amount of \$2,000 [either](#) to the approved provider that facilitated the mentoring relationship for disbursement to the mentor [or directly to the mentor if requested by the provider](#).

(Source: Amended at 32 Ill. Reg. 17768, effective October 30, 2008)

**Section 35.30 Requirements of the Program**

Each new principal shall complete a mentoring program that complies with the requirements of this Section, provided that there is a sufficient appropriation for the program applicable to the fiscal year that includes the individual's first school year of service as a principal (see Section 2-3.53a of the School Code and Section 35.20 of this Part).

- a) Mentors who meet the requirements of this Part shall be paired with new principals by [providersentities](#) approved under Section 35.60 of this Part, on the basis of the factors identified in Section 2-3.53a(d) of the School Code [105 ILCS 5/2-3.53a(d)]. Each approved [providerentity](#) shall notify the affected district superintendents of the assignments made, and each affected superintendent shall acknowledge the new principals' obligation to participate in the program.
- b) The role of each mentor shall include:
  - 1) forming a supportive professional relationship with the new principal;
  - 2) assisting the new principal in adjusting to his or her new role and in developing skill as an instructional leader;
  - 3) coaching, observing, and providing feedback to the new principal on aspects of organizational management;

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- 4) helping the new principal identify significant problems and issues that act as barriers to school improvement, as well as meaningful solutions to these; and
  - 5) providing structured opportunities for the new principal's reflection on his or her educational practice.
- c) The mentor and recipient principal shall spend no fewer than 50 contact hours in activities demonstrably involved in the mentoring process, as delineated in subsection (b) of this Section. The mentor and recipient may conduct some or most of their contact using means of telecommunication but shall meet in person at least:
- 1) near the beginning of the school year, in order to initiate the mentoring relationship;
  - 2) near the middle of the school year, in order to complete the survey of progress required by Section 2-3.53a(e) of the School Code [105 ILCS 5/2-3.53a(e)]; and
  - 3) at the conclusion of the school year, in order to complete the verification form and certify completion of the program as required by that Section.
- d) Each mentor and his or her employer, if any, shall be responsible for reaching a mutually agreeable arrangement regarding the mentor's availability for activities that necessarily occur during paid time, such as observing the first-year principal.
- e) Time spent traveling by the mentor or recipient to meet with the other party shall not be counted as part of the required contact hours. The mentor shall bear the cost of any travel unless otherwise agreed with the mentor's employer.
- f) Each recipient of mentoring under this Part shall maintain a log of his or her work with the assigned mentor that includes at least the date of each contact, the purpose, and the amount of time spent.
- g) At the conclusion of the school year, the recipient shall prepare a summary of the mentoring experience, indicating how selected aspects of his or her practice have been affected by the interaction with the assigned mentor.

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- h) The year-end summary shall be included in the verification to be signed by both individuals to signify completion of the program. This document shall be prepared in a format specified by the State Superintendent of Education and shall also be signed by the recipient principal's supervisor and by the mentor's supervisor, if any, to signify completion of the work outlined in the log and the summary. Each mentor shall submit the verification to the provider with which he or she is enrolled, and the provider shall compile for the State Superintendent a list of the mentors who have provided the required services under the program and for whom payment is due.

(Source: Amended at 32 Ill. Reg. 17768, effective October 30, 2008)

**Section 35.40 Eligibility of Mentors**

Pursuant to Section 2-3.53a of the School Code, eligibility for service as mentors under this Part shall be limited to individuals who have served as principals in Illinois for at least three years, who have demonstrated success as instructional leaders, and who have completed the training required pursuant to Section 35.50 of this Part.

- a) For purposes of this Part, "at least three years" means no fewer than three full school years, provided that a principal need not have accrued all three years' service in the same school or district.
- b) For purposes of this Part, an experienced principal shall be considered to have demonstrated success as an instructional leader if he or she holds an Illinois administrative certificate and submits to the State Superintendent of Education or designee at least two~~three~~ letters of professional reference in accordance with this subsection (b).
- 1) Each principal shall submit at least one letter from a certified staff member who is not an administrator and has served for at least one full school year under the principal's supervision.
- 2) ~~Each principal shall submit one letter from another principal who has knowledge of the individual's work.~~ 3) Each principal shall submit at least one letter from a district superintendent or assistant superintendent under whose supervision the principal has served for at least one full school year, or from a regional superintendent who has knowledge of the principal's work.

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- |        34) Each required letter of reference shall include:
- A) the nature of the working relationship between the letter-writer and the principal in question;
  - B) the letter-writer's reasons for believing that the principal in question is of ethical character and possesses strong interpersonal skills; and
  - C) one or more specific examples of the principal's accomplishments related to particular aspects of the Illinois Professional School Leader Standards set forth at 23 Ill. Adm. Code 29.100.
- c) No individual shall serve as a mentor if more than five years have elapsed since his or her last date of service as a principal in an Illinois school or service in some other educational capacity that routinely requires interaction with principals and familiarity with the issues and challenges they face. Evidence of the latter type of service shall be a contract, job description, or other document generated by the employing entity.

(Source: Amended at 32 Ill. Reg. 17768, effective October 30, 2008)

**Section 35.50 Training for Mentors**

- a) Prior to beginning his or her first assignment as a mentor under this Part, each experienced principal shall be required to complete a standardized training program prescribed by the State Superintendent of Education. This training program shall be made available at no cost to the participating mentors and shall focus on equipping the participants to perform the functions outlined in Section 35.30 of this Part. The training program shall address areas of expertise including, but not limited to:
- 1) the Illinois Professional School Leader Standards (see 23 Ill. Adm. Code 29.100);
  - 2) ethics;
  - 3) principles of adult learning;

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- 4) establishing a mentoring relationship; and
  - 5) mentoring skills and techniques.
- b) In admitting individuals to the required training, providers shall give first priority to those who intend to be included in the pool of available mentors for the program as described in Section 35.20(d) of this Part. Other individuals may be accommodated if space permits.
- c) Each [provider entity](#) approved under Section 35.60 of this Part shall provide to the State Superintendent or designee a list identifying the individuals who have completed the required training sequence.
- d) Each mentor who intends to continue providing service under this Part shall participate in annual "refresher" training.

(Source: Amended at 32 Ill. Reg. 17768, effective October 30, 2008)

**Section 35.60 Approval and Role of Providers**

The State Superintendent of Education shall approve one or more organizations representing Illinois principals, institutions of higher education, community colleges, regional offices of education, school districts, or other educational entities to administer and implement the new principal mentoring program according to the requirements stated in Section 35.30 of this Part, including delivering the training program for mentors that is required under Section 35.50 of this Part.

- a) Any entity seeking approval under this Section shall submit to the State Superintendent an application, in a format prescribed by the State Superintendent, outlining the organization's qualifications for providing professional development to educators, including information specific to the organization's experience with serving potential mentors and recipients of mentoring.
- b) The State Superintendent shall approve as providers one or more entities whose applications:
  - 1) provide evidence of an overall commitment to professionalizing education and school improvement efforts;

## STATE BOARD OF EDUCATION

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- 2) demonstrate capacity to meet the needs of an identified geographic area or set of districts; and
- 3) indicate that the applicants have staff or access to other presenters who:
  - A) have been employed in roles requiring mastery of the Illinois Professional School Leader Standards; and
  - B) have experience in providing professional development to educators.
- c) Each approved provider shall, with respect to each mentor who enrolls with that provider:
  - 1) provide the initial training required under Section 35.50 of this Part if the individual has not already completed it;
  - 2) to the extent necessitated by the level of demand, facilitate the individual's assignment to one or more new principals based on the factors set forth in Section 2-3.53a of the School Code;
  - 3) provide support and professional resources to the mentor in the course of his or her mentoring relationships;
  - 4) provide quarterly networking sessions to enhance the mentor's skills and provide structured opportunities for problem-solving;
  - 5) guide the mentor in the compilation of information that will contribute to the evaluation of individual mentoring relationships and of the mentoring program as a whole;
  - 6) receive and distribute payments to mentors as delineated in Section 35.20(e) of this Part; and
  - 7) provide annual "refresher" training.
- d) Approval of [provider training entities](#) shall be valid for three years. To request renewal, a provider shall, no later than March 1 of the year of expiration, submit

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an application in a format specified by the State Superintendent of Education, containing:

- 1) a description of any significant changes in the material submitted as part of its approved application; or
  - 2) a statement that no significant changes have occurred.
- e) A provider's approval shall be renewed if the application conforms to the requirements of subsection (d) of this Section, provided that the State Superintendent has received no evidence of the provider's failure to provide the required services under the program.
- f) The State Superintendent of Education may evaluate any approved provider at any time to ensure the consistent quality of the mentoring program. Upon request by the State Superintendent, a provider shall supply information regarding its activities in conjunction with the mentoring program, which the State Superintendent may monitor at any time. In the event an evaluation indicates that a provider is not furnishing services in keeping with subsection (c) of this Section, the State Superintendent may withdraw approval of the provider.

(Source: Amended at 32 Ill. Reg. 17768, effective October 30, 2008)

**Section 35.70 Alternate Arrangements**

In cases where an assigned mentor becomes unavailable after a mentoring assignment has been initiated, the approved [provider training entity](#) that facilitated the mentor's assignment shall be responsible for identifying a replacement to complete the assignment and for determining the appropriate allocation of the payment to the individuals involved.

(Source: Amended at 32 Ill. Reg. 17768, effective October 30, 2008)

## STATE OF ILLINOIS RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1540.90	Amended
1540.270	Amended
- 4) Statutory Authority: 40 ILCS 5/Art. 14 and 5 ILCS 120/2.01 and 7
- 5) Effective Date of Amendments: October 29, 2008
- 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. Copies are available upon request from the Field Services Division.
- 9) Notice of Proposed published in the Illinois Register: July 7, 2008; 32 Ill. Reg. 9587
- 10) Has JCAR issued a Statement of no Objection to these amendments? No
- 11) Differences between proposal and final version: There have been minor word changes in both Sections 1540.90 and 1540.270 at JCAR's suggestion.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are these amendments pending on this Part? No
- 15) Information and questions regarding this adopted rulemaking shall be directed to:

Tim Blair  
Acting Executive Secretary

STATE OF ILLINOIS RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

2101 South Veterans Parkway  
P. O. Box 19255  
Springfield, Illinois

217/785-7016

- 16) Do these amendments require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]: No

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

## STATE OF ILLINOIS RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

## SUBTITLE D: RETIREMENT SYSTEMS

## CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## PART 1540

THE ADMINISTRATION AND OPERATION OF THE  
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

Section	
1540.5	Introduction
1540.10	Appointment of Retirement System Coordinator
1540.20	Member's Contribution and Service Credit
1540.30	Determination of Rate of Compensation
1540.40	Prior Service Credit
1540.50	Credit for Service for Which Contributions are Permitted
1540.60	Severance of Employment – A Condition to the Payment of a Refund or Retirement Annuity
1540.70	Death Benefits
1540.80	Disability Claims
1540.90	Benefit Offset
1540.100	Birth Date Verification
1540.110	Marriage Verification
1540.120	Level Income Option
1540.130	Pension Credit for Unused Sick Leave
1540.140	Removal of Children from Care of Surviving Spouse
1540.150	Proof of Dependency
1540.160	Investigations of Benefit Recipients
1540.170	Interest on Member Contributions
1540.180	Date of Application – Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments
1540.190	Lump Sum Salary Payments
1540.200	Removal from the Payroll
1540.210	Latest Date of Membership
1540.220	Period for Payment and Amount of Payment of Contributions
1540.230	Contributions by the State (Repealed)
1540.240	Actuarially Funded Basis (Repealed)
1540.250	Payments to Establish Credit for Service for Which Contributions are Permitted
1540.255	Pick-up Option for Optional Service Contributions
1540.260	Contributions and Service Credit During Nonwork Periods

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1540.270	Written Appeals and Hearings
1540.280	Availability for Public Inspection (Recodified)
1540.290	Procedure for Submission, Consideration and Disposition of Petitions Seeking the Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)
1540.300	Organization of the State Employees' Retirement System (Recodified)
1540.310	Amendments
1540.320	Optional Forms of Benefits – Basis of Computation
1540.330	Board Elections
1540.340	Excess Benefit Arrangement
1540.350	Qualified Illinois Domestic Relations Orders (QILDRO)
1540.TABLE A	Optional Forms of Benefits – Basis of Computation

AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40 ILCS 5/Art. 14].

SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677, effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill. Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990; amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187, effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1, 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090, effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency

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amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21, 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008.

**Section 1540.90 Benefit Offset**

- a) Occupational Disability and Occupational Death  
Benefits received under Workers' Compensation Act [820 ILCS 305] or Workers' Occupational Diseases Act [820 ILCS 310] with respect to disability or death of a member shall be applied as an offset against any occupational disability or death benefit provided under the Retirement System with respect to the same disability or death. The Workers' Compensation average weekly wage will be converted to a monthly rate for use as an offset to the Retirement System monthly benefit.
  - 1) If the amount of compensation received is less than the monthly benefit provided under the Pension Code, only the amount of the excess of such monthly benefit over the amount of such compensation shall be payable by the Retirement System, subject, in the case of occupational death, to any minimum benefit provided by Section 14-103.18 and Section 14-121(h) of the Pension Code. If the amount of compensation received equals or exceeds the monthly benefit provided under the Pension Code, no benefit shall be payable by the Retirement System during the period compensation is paid under the Workers' Compensation Act or Workers' Occupational Diseases Act.
  - 2) If the compensation for disability or death is received in a commuted lump sum or partly in a commuted lump sum and partly in monthly or weekly sums, the Retirement System shall, for offset purposes, consider the compensation as if it had been paid using the average weekly wage as prescribed under the Workers' Compensation Act or Workers' Occupational Diseases Act. Salary or wages paid beyond date of disability shall not be considered part of the Workers' Compensation offset.
  - 3) In the event the whole or any part of the benefits received under the Workers' Compensation Act or Workers' Occupational Diseases Act is

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commuted into one sum, the aggregate sum of the benefits so commuted and not the commuted value thereof shall be used for purposes of ascertaining the amount of offset.

- 4) No such offset or compensation shall be made after retirement of a member of a retirement annuity.
- 5) The amount considered for offset purposes shall be reduced by any legal expenses granted in the award.
- 6) No offset shall be made with respect to amounts received or paid under the Workers' Compensation Act or Workers' Occupational Diseases Act for medical, hospital, or burial expenses.
- 7) That portion of the occupational death benefit consisting of accumulated contributions of a member shall not be subject to any offset mentioned in this section.
- 8) The termination of death benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act due to remarriage of the benefit recipient shall cause the offset to the Occupational Death Benefit applicable to the remarried benefit recipient to terminate effective with the last month of eligibility represented in the final benefit payment under the Workers' Compensation Act or Workers' Occupational Diseases Act.
- 9) In those cases where the injury or death, for which an occupational disability or death benefit is payable, creates a legal liability for damages on the part of some person other than the employer to pay damages, the Workers' Compensation offset shall be applied as follows:
  - A) Any amounts paid under the Workers' Compensation Act or Workers' Occupational Diseases Act are subject to the offset provisions of Article 14 of the Pension Code [40 ILCS 5/Art. 14] and this Part, even though such amounts are recoverable under the subrogation Section 5(b) of the Workers' Compensation Act.
  - B) In the event that benefits due under the Workers' Compensation Act or Workers' Occupational Diseases Act are commuted into one sum or waived in lieu of the member seeking recovery against a

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third party, the System shall use the amount of any judgment, settlement or payment for such injury by the third party as a credit against any benefits paid or payable by the System.

- 10) Any periods of disability for which payment under the Workers' Compensation Act is denied due to the failure of the individual to comply with that Act which result in a period of noncompensability under the Workers' Compensation Act will not be considered for Occupational Disability until the entire Workers' Compensation case has been finalized through the Illinois [Workers' Compensation](#) ~~Industrial~~ Commission.

b) Nonoccupational Disability and Temporary Disability

- 1) The nonoccupational and temporary disability benefit payable to a covered member shall be offset before age 65 by the amount of Social Security disability benefit payable prior to the member attaining age 65 and after age 65 by the amount of the Social Security retirement benefit for which the individual is first eligible on or after attaining age 65 less legal expenses paid by the member to obtain the award up to the maximum allowed by the Social Security Administration.
- 2) The Social Security retirement benefit offset will be applied as follows at age 65:
- A) For a disability benefit recipient who received Social Security disability benefits before age 65, the Social Security disability benefit payment applied as the offset prior to age 65 will remain in effect as the Social Security retirement benefit offset on or after age 65.
- B) For a disability benefit recipient who did not receive Social Security disability benefits before age 65, the Social Security disability benefit amount that would have been payable by the Social Security Administration had the disability benefit recipient been disabled for the purpose of Social Security will be used as the Social Security retirement benefit offset at age 65 regardless of acceptance of a Social Security retirement benefit before age 65.
- C) When a Social Security disability benefit amount is not provided

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by the Social Security Administration because the individual is not eligible for a disability benefit for a reason other than not being disabled, the Social Security retirement benefit determined at the date of disability for which the individual is eligible at age 65 will be used for offset purposes at age 65.

- 3) Disability benefits commencing after age 65 will be offset by Social Security retirement benefits for which the individual is eligible on the commencement of disability.
- c) Widow's and Survivor's Annuities
- 1) When a monthly widow's or survivor's annuity is approved on account of a covered employee, the annuity shall be reduced by one-half of any Social Security survivor's benefits for which all beneficiaries included in the widow's or survivor's annuity are eligible. The offset shall not reduce any survivor's or widow's benefit by more than 50 percent.
  - 2) The reduction will commence on the date the beneficiaries first become eligible to receive any portion of the Social Security benefit, regardless of whether the beneficiaries elect to accept the Social Security benefit on that date, or if the beneficiaries' own earnings preclude payment of Social Security survivor's benefits.
  - 3) If, at the time the offset is to be commenced:
    - A) the survivor is eligible to receive a monthly benefit amount based on his/her own Primary Insurance Amount, ~~that such~~ amount shall be deducted from the amount of survivor's benefit payable by Social Security and the offset computed on the difference;
    - B) the survivor is eligible to receive a monthly benefit amount based on his/her own Primary Insurance Amount and a governmental pension offset would have been applied to the Social Security survivor's benefit, ~~that such~~ amount shall be deducted from the amount of the survivor's benefit payable by Social Security and the offset computed on the difference.
  - 4) The Social Security reduction amount once established shall remain

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constant except for the following conditions:

- A) If a survivor under age 50 previously receiving the survivor's benefit because of minor children becomes a deferred annuitant then the offset amount will be recomputed when he or she first becomes eligible for Social Security survivor's benefits. The offset amount will be based on the original widow's Social Security survivor's amount ignoring subsequent increases to the deceased's Primary Insurance Amount. The recomputed offset amount shall be the balance of the Social Security survivor's benefit minus the governmental pension offset, if any.
- B) The offset amount will be adjusted when a child is removed from consideration for the System's annuity.
- C) The offset amount will be adjusted when any benefit recipients become ineligible for Social Security benefits.
- D) For deaths on or after [July 1, 1990](#)~~the effective date of this Section~~ [change](#), if a survivor under age 62 previously receiving the survivor's benefit becomes eligible to receive a monthly benefit amount based on a Primary Insurance Amount on his or her own record, then the offset will be recomputed when he or she first becomes eligible to receive his or her own Primary Insurance Amount. The offset amount will be based on the estimated widow's or widower's Social Security survivor's amount determined at the date of death of the member less the estimated monthly benefit amount based on the Primary Insurance Amount of the survivor determined at the date of death of member, and the government pension offset, if any, ignoring any subsequent increases to the deceased Primary Insurance Amount or the survivor's Primary Insurance Amount. The monthly benefit amount based on the primary insurance amount of the survivor shall be determined from the Social Security Administrations' Personal Earnings and Benefit Estimate Statement, including any adjustment due to the application of the Windfall Elimination Provision.

d) Retirement Annuity

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Pursuant to Section 14-108(f) of the Pension Code, for members under age 65, the primary insurance benefit payable to the member upon attainment of age 65 shall, at the date of acceptance of a retirement annuity, be determined from the Social Security Administrations' Personal Earnings and Benefit Estimate Statement, including any adjustments due to the application of the Windfall Elimination Provision. For members over age 65, the primary insurance benefit shall be the amount of Social Security benefits payable at the date of retirement with the State Employees' Retirement System.

(Source: Amended at 32 Ill. Reg. 17779, effective October 29, 2008)

**Section 1540.270 Written Appeals and Hearings**

## a) Purpose of Rule-

All claims for benefits payable by the System, all claims for service credits granted by the System and all denials of benefits by the System shall be reviewed by the Executive Committee, which shall make recommendations for the initial disposition of the claim to the Board of Trustees who shall make the final decision. An individual may have the initial disposition of a claim reconsidered either at a hearing before the Executive Committee or by filing a Written Appeal with the Executive Committee.

## b) Definition of Terms

"Authorized Representative" – a person representing a Petitioner in a written appeal~~Written Appeal~~ or hearing~~Hearing~~.

"Examiner" – the Chairman of the Executive Committee or other officer of the State Employees' Retirement System or person designated by the Board of Trustees to conduct administrative hearings.

"Hearing" – the reconsideration by the Executive Committee of the initial disposition of a claim, at which the Petitioner appears in person or by an Authorized Representative, either at the hearing or by video or audio conference.

"Legal Action" - any action, following the final denial by the Board of Trustees, in which a member is seeking relief in State or Federal Court for a disputed claim.

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"Petition" – a written request made by a Petitioner or Authorized Representative for a ~~hearing~~Hearing, a ~~written appeal~~Written Appeal, a ~~rehearing~~Rehearing, or a ~~written reappeal~~Written Reappeal before the Executive Committee.

"Petitioner" – an individual who requests by Petition:

a ~~hearing~~Hearing or a ~~written appeal~~Written Appeal before the Executive Committee for reconsideration of the initial disposition of a claim; or

a ~~rehearing~~Rehearing or ~~written reappeal~~Written Reappeal before the Executive Committee for reconsideration of the disposition of a ~~hearing~~Hearing or ~~written appeal~~Written Appeal.

"Rehearing" – the reconsideration by the Executive Committee of the disposition of a ~~hearing~~Hearing or ~~written appeal~~Written Appeal, at which the Petitioner appears in person or by an Authorized Representative, either at the hearing or by video or audio conference.

"System" – the State Employees' Retirement System of Illinois.

"Video or Audio Conference" – hearing or rehearing before the Executive Committee for which the Petitioner or Authorized Representative is not physically present and the proceeding before the Executive Committee is conducted through Polycom VSX™ 7000s video and audio technology.

"Written Appeal" – the reconsideration by the Executive Committee, based upon written evidence, of the initial disposition of a Petitioner's claim, at which the Petitioner does not appear either in person or by an Authorized Representative.

"Written Reappeal" – the reconsideration by the Executive Committee, based upon written evidence, of the disposition of a ~~hearing~~Hearing or ~~written appeal~~Written Appeal, at which the Petitioner does not appear either in person or by an Authorized Representative.

- c) Written Appeals to Executive Committee

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- 1) Communication to Executive Committee  
All Petitions for Written Appeal shall be directed to the Executive Secretary of the System at its Springfield Office and must be received within 30 days following the notification of the initial disposition of the claim.
- 2) Form of Written Appeal  
A Petition for a Written Appeal shall set forth the name and address of the Petitioner, the name and address of his Authorized Representative if applicable, a brief statement of the facts forming the basis of [the written appeals](#)~~such Written Appeal~~, which must include any new or additional evidence, and the relief sought.
- 3) Disposition of Written Appeal
  - A) The Executive Committee shall consider [written appeals](#)~~Written Appeals~~ at the next regular meeting of the Executive Committee more than 15 days after the receipt of the Petition.
  - B) Following the [written appeal](#)~~Written Appeal~~ and the receipt of all supplemental material requested, the recommendation of the Executive Committee shall be communicated in writing to the Petitioner and ~~his~~ Authorized Representative, if applicable, and the appropriate action shall be implemented by the Executive Committee subject to the approval of the Board of Trustees.
- 4) Continuances and Extensions of Time  
Continuances and [extensions](#)~~Extensions~~ of time shall be granted by the Executive Committee or the Examiner when it is demonstrated that obtaining and presenting additional evidence is necessary to render a fair and equitable decision on the written appeal before the Committee.
- 5) Minutes and Records of Written Appeals
  - A) Minutes of every meeting of the Executive Committee and a record of all [written appeals](#)~~Written Appeals~~ before the Executive Committee shall be kept by the Executive Secretary of the System at its Springfield Office.

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B) The Executive Secretary of the System shall be the official custodian of all papers and documents filed in proceedings before the Executive Committee.

d) Hearings Before the Executive Committee

1) Communication to the Executive Committee

All Petitions for Hearings shall be made to the Executive Secretary of the System at its Springfield Office and must be received within 30 days following the notification of the initial disposition of the claim.

2) Appearance

Any Petitioner or Authorized Representative may appear at a [hearingHearing](#) before the Executive Committee, [either in person or by video or audio conference](#).

3) Form of Petition

Petitions may be informal or formal and shall be presented by letter or other writing. A petition shall set forth the name and address of the Petitioner, the name and address of the Authorized Representative, if applicable, a brief statement of the facts forming the basis of [the petition](#)~~sueh Petition~~, which must include any new or additional evidence and the relief sought.

4) Prehearing Conferences

A) Upon written request by the Executive Committee or a Petitioner or ~~his~~ Authorized Representative, a conference shall be conducted for the purpose of formulating issues and considering:

i) The simplification of issues;

ii) The amendment of pleadings;

iii) The making of admissions of facts or stipulations for the purpose of avoiding the unnecessary introduction of evidence;

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- iv) The procedure at the hearing;
  - v) The limitation of the number of witnesses; and
  - vi) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.
- B) The persons attending the prehearing conference may enter into a written stipulation as to matters decided in the prehearing conference.
- C) Facts disclosed in the course of the prehearing conferences are privileged and, except by agreement, shall not be used against the Petitioner or any other party attending the prehearing conference either before the Executive Committee or elsewhere unless fully substantiated by other evidence.
- 5) Conduct of Hearings
- A) Hearings shall be conducted before the Executive Committee by the Examiner and shall be of an informal nature.
  - B) The Examiner shall direct all parties to enter their appearances on the record.
  - C) Parties may, by written stipulation, agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding.
  - D) Irrelevant material or unduly repetitious evidence shall be excluded.
- 6) Documentary Evidence
- Whenever possible, documents and exhibits shall be introduced by stipulation of the parties. Originals of documents shall be introduced into evidence with leave of the Examiner to substitute the originals with copies. Whenever possible, the parties shall interchange copies of exhibits or other pertinent material before the hearing at which they are to be offered.

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- 7) Briefs and Oral Arguments  
Written briefs and oral arguments shall be allowed at the request of the Petitioner. The time limitations upon the oral argument shall be determined by the Examiner having regard to the magnitude and complexity of the issues involved and the other business of the Executive Committee.
- 8) Disposition of Hearing  
Following the hearing and receipt of all supplemental material requested, the Executive Committee, following its next scheduled meeting, shall communicate its recommendation in writing to the Petitioner and ~~his~~ Authorized Representative, if applicable. ~~The~~Such recommendation shall contain a sufficient statement of the facts, all necessary findings of fact and conclusions of law, ~~and a paragraph or paragraphs containing~~ a suggested decision or decisions of the Board of Trustees. ~~The, and the~~ appropriate action shall be implemented by the Executive Committee subject to the approval of the Board of Trustees.
- 9) Continuances and Extensions of Time  
Continuances and extensions of time shall be granted by the Executive Committee or the Examiner when it is demonstrated that obtaining and presenting additional evidence or witnesses is necessary to render a fair and equitable decision on the hearing before the Committee.
- 10) Minutes and Record of Hearing
  - A) Minutes of every meeting of the Executive Committee and a record of all hearings before the Executive Committee shall be kept by the Executive Secretary of the System at its Springfield Office.
  - B) A bystander's record of all hearings shall be prepared by the Executive Committee and shall include the substantive matters of the hearing, but shall not purport to be a verbatim transcript of the proceedings. The record shall be available to the Petitioner or ~~his~~ Authorized Representative prior to the Executive Committee making its recommendations.
  - C) The Executive Secretary of the System shall be the official

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custodian of all papers and documents filed in proceedings before the Executive Committee.

- e) Rehearings and Written Reappeals
- 1) Purpose of Rehearing and Written Reappeal  
The Executive Committee shall grant a ~~rehearing~~ ~~Rehearing~~ or ~~written reappeal~~ ~~Written Reappeal~~ only for the purpose of considering new or additional evidence not previously available.
  - 2) Procedures for Rehearing  
The procedures set forth in subsection (d) (Hearings Before the Executive Committee) ~~hereof~~ shall apply to ~~rehearings~~ ~~Rehearings~~, except that a Petition for a Rehearing must be received within 90 days following the notification of the final decision of the Board of Trustees with respect to the recommendation of the Executive Committee.
  - 3) Procedures for Written Reappeal  
The procedures set forth in subsection (c) (Written Appeals to Executive Committee) ~~hereof~~ shall apply to ~~written reappeals~~ ~~Written Reappeals~~, except that a Petition for a Written Reappeal must be received within 90 days following the notification of the final decision of the Board of Trustees with respect to the recommendation of the Executive Committee.
- f) Decisions of Board of Trustees
- 1) Decisions of the Board of Trustees shall be final administrative decisions subject to the provisions of the Administrative Review Law ~~[735 ILCS 5/Art. III](Ill. Rev. Stat. 1983, ch. 110, pars. 3-101 et seq., as amended)~~.
  - 2) Communication to Petitioner  
The decision of the Board of Trustees shall be communicated in writing to the Petitioner and ~~his~~ Authorized Representative, if applicable.
- g) A request for a retirement annuity or a refund of contributions shall be granted when legal action is pending on a disputed disability claim. Should the member receive a favorable decision on the legal action against the System and request additional disability benefits with regard to the disputed claim for a period beyond the effective date the retirement annuity or refund of contributions, ~~the member~~ ~~he~~

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must repay all retirement benefits or refund of contributions within 30 days  
| [after](#) notification by the System of the amount due.

(Source: Amended at 32 Ill. Reg. 17779, effective October 29, 2008)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Relocation Assistance and Payments Program
- 2) Code Citation: 92 Ill. Adm. Code 518
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
518.10	Repeal
518.15	Repeal
518.20	Repeal
518.100	Repeal
518.105	Repeal
518.110	Repeal
518.115	Repeal
518.120	Repeal
518.125	Repeal
518.130	Repeal
518.135	Repeal
518.140	Repeal
518.145	Repeal
518.200	Repeal
518.300	Repeal
518.305	Repeal
518.310	Repeal
518.315	Repeal
518.320	Repeal
518.400	Repeal
518.405	Repeal
518.410	Repeal
518.415	Repeal
518.420	Repeal
518.500	Repeal
518.505	Repeal
518.600	Repeal
518.700	Repeal
518.705	Repeal
518.710	Repeal
518.715	Repeal
518.720	Repeal
518.725	Repeal
518.730	Repeal

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED REPEALER

518.735	Repeal
518.740	Repeal
518.745	Repeal
518.750	Repeal
518.800	Repeal
518.805	Repeal
518.810	Repeal
518.815	Repeal
518.820	Repeal
518.825	Repeal
518.830	Repeal
518.835	Repeal
518.840	Repeal
518.845	Repeal
518.850	Repeal
518.855	Repeal
518.860	Repeal
518.865	Repeal
518.870	Repeal
518.875	Repeal
518.900	Repeal
518.905	Repeal
518.910	Repeal
518.915	Repeal
518.920	Repeal
518.925	Repeal
518.1000	Repeal
518.1005	Repeal
518.2000	Repeal
518.2005	Repeal
518.2010	Repeal
518.3000	Repeal
518.3005	Repeal
518.3010	Repeal
518.4000	Repeal
518.4005	Repeal
518.4010	Repeal
518.4015	Repeal
518.4020	Repeal

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED REPEALER

518.4025	Repeal
518.4030	Repeal
518.4035	Repeal
518.4040	Repeal
518.4045	Repeal
518.4050	Repeal
518.4055	Repeal
518.4060	Repeal
518.4065	Repeal
518.4070	Repeal
518.4075	Repeal
518.4080	Repeal
518.4085	Repeal
518.4090	Repeal
518.4095	Repeal
518.4100	Repeal
518.5000	Repeal
518.EXHIBIT A	Repeal

- 4) Statutory Authority: Implementing Sections 3-107.1 through 3-107.1f and Section 4-511 of the Illinois Highway Code (Ill. Rev. Stat. 1991, ch. 121, pars. 3-107.1 through 3-107.1f and 4-511 as amended by P.A. 85-1407, effective September 22, 1988) [605 ILCS 5/3-107.1 through 3-107.1f and 4-511]; which were required by Sections 103, 210 and 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, 84 Stat. 1894 (42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Public Law 100-17, 101 Stat. 246-256 (42 U.S.C. 4601 Note); Department of Transportation Act (49 U.S.C. 1655); Delegation of Authority by the Secretary of Transportation (49 CFR 1.48(dd), 1987); Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs (54 CFR 8912, effective March 2, 1989); Title VI Program and Related Statutes – Implementation and Review Procedures (23 CFR 200, 1988) and authorized by Section 3-107.1e of the Illinois Highway Code (Ill. Rev. Stat. 1991, ch. 121, par. 3-107.1e) [605 ILCS 5/3-107.1e]
- 5) Effective Date of Repealer: October 31, 2008
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED REPEALER

- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's Division of Aeronautics and Office of Chief Counsel and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 12199; August 1, 2008
- 10) Has JCAR issued a Statement of Objection to this repealer? 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 changes were necessary.
- 13) Will this repealer replace any emergency repealer currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Repealer: The Department repealed this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, has adopted a new rule that reorganized and updated the Part. Additionally, the Department added definitions to the new Part that were not covered in this rule but that are applicable to the new Part.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Mr. Richard W. Hunter, Bureau Chief  
Illinois Department of Transportation  
Division of Highways, Bureau of Land Acquisition  
2300 South Dirksen Parkway, Room 210  
Springfield, Illinois 62764

217/782-6243

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Relocation Assistance Services and Payments Program for State Highway Projects
- 2) Code Citation: 92 Ill. Adm. Code 518
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
518.10	New Section
518.20	New Section
518.30	New Section
518.40	New Section
- 4) Statutory Authority: Implementing Sections 3-107.1 through 3-107.1f and Section 4-511, and authorized by Section 3-107.1e, of the Illinois Highway Code [605 ILCS 5/3-107.1 through 3-107.1f and 4-511]; by Section 5-675 of the Civil Administrative Code of Illinois [20 ILCS 5/5-675]; by Sections 2, 2a, 3, 4 and 5 of the Displaced Person Relocation Act [310 ILCS 40/2, 2a, 3, 4 and 5]; and by Section 10-5-62 of the Eminent Domain Act [735 ILCS 30/10-5-62]
- 5) Effective Date of Rules: October 31, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Highways and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 12189; August 1, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Non-substantive grammatical changes were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: By this Notice, the Department has promulgated a new, reorganized and updated Part on the relocation assistance and payments program for highway projects while simultaneously repealing the current rules, notice and text of which appear elsewhere in this issue of the *Illinois Register*.

On January 4, 2005, at 70 FR 590-638, the Federal Highway Administration revised "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs" (49 CFR 24). The federal regulations set forth requirements for implementing the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970, as amended (the Uniform Act) [42 USC 4601]. The Uniform Act applies to all acquisitions of real property or displacements of persons resulting from federal or federally-assisted programs or projects.

The Uniform Act also requires State agencies to establish rules and procedures and make interpretations to implement the provisions of the Uniform Act. Therefore, by this rulemaking, the Illinois Department of Transportation, Division of Highways (the Division), has incorporated by reference the provisions of 49 CFR 24, except Subpart B, as of October 1, 2007, and further defined the review procedures when an aggrieved person believes the Division failed to properly consider his/her eligibility for relocation assistance advisory services, payments, or the amount of a payment required under this Part. Additionally, the Division added additional definitions not covered under 49 CFR 24 that are applicable to this Part. This rulemaking will put the Division in compliance with the requirements of the Uniform Act and 49 CFR 24 and will help assure federal participation on federally-assisted highway projects.

Following are summaries of changes to 49 CFR 24 that are incorporated by reference:

At 49 CFR 24, subpart C – General Relocation Requirements:

- Planning requirements for business sites have been expanded resulting in the business requirements being more in line with those of residential properties.
- Relocation advisory services have been expanded for businesses, including the requirement to interview a business; however, the Division has always interviewed businesses so this is not a change for the Division.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

- Clarification that an agency cannot propose or request a waiver of benefits or assistance. The agency may accept a written waiver for some or all benefits or assistance; but, the waiver must be voluntarily provided by the displaced person and must be in writing, signed and dated. This provision allows the displaced person another option other than refusal to accept assistance or claim benefits.
- Relocation payments or assistance may not be made to illegal aliens unless the person can demonstrate exceptional and extremely unintended hardship, as defined by 49 CFR 24.

## At 49 CFR 24, subpart D – Moving Payments:

- Residential moves are not eligible to receive the lower of two bids. Residential moves are subject to payment based on actual expenses incurred using a commercial mover; or, based on a self move that includes several criteria subject to approval before payment can be made.
- Mobile home moves are subject to the same requirements as other residential moves.
- Reimbursement for searching expenses was increased to \$2,500.
- Reimbursement payment for a dormitory room was increased from \$50 to \$100.

## At 49 CFR, subpart E – Replacement Housing Payments

- Reimbursement for a "professional home inspection" was added to the listing of eligible incidental expenses. The Division formerly paid this expense under "certification of soundness".
- When determining a rental replacement housing supplement for a 180-day owner who chooses to rent a replacement property, the estimated rent used for the computation of the payment shall be based on the market rent for the acquired dwelling. The Division has always based the computation on the market rent for the acquired dwelling so this is not a change for the Division.
- Concerning the base monthly rental for a displacement dwelling, the 30% rule was changed from "30% of the average gross household income" to "30% of the displaced persons average monthly gross household income if the amount is classified as "low income" by the US Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Program".

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- A down payment computation less than the \$5,250 maximum payment may be increased to \$5,250 as long as it is applied in a uniform and consistent manner so that all eligible displaced persons in like circumstances are treated equally.
- The provision that allowed an agency to deduct from the relocation payment any rent payment the displaced person owes has been removed.

At 49 CFR 24, subpart F – Mobile Homes:

- More specificity has been added concerning applicability of the rules to mobile homes.
- A provision covering the partial acquisition of a mobile home has been added. Specifically, if the agency determines that a mobile home located on the remaining part of the property must be moved as a direct result of the project, the occupant shall be considered a displaced person and entitled to relocation payments and assistance under the rule.

Other differences between the repealed rule and the new rule due to policy decisions made by the Division:

- Sections 518.500 and 518.505 have been revised and combined into Section 518.40 in the new rule. The review process remains essentially the same except revisions have been made to reflect the Division of Highways' reorganization. Some of the time frames have been revised. An aggrieved person will have 90 days, rather than 60 days, from the date of written notification of the District's determination to file a request for review of the determination. Then, an aggrieved person will have 30 days from notification of the Regional Engineer's decision to request a final review with the Director. Under the current rule, there is no time period specified for a final review.
- Several definitions have been revised to reflect the reorganization of the Division of Highways and several new definitions were added to the new Part again due to the reorganization.
- Several definitions have been deleted; such as, "FHWA", "Right-of-Way", and "Subsidiary Project Office".

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

Mr. Richard W. Hunter, Bureau Chief

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DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

Illinois Department of Transportation  
Division of Highways, Bureau of Land Acquisition  
2300 South Dirksen Parkway, Room 210  
Springfield, Illinois 62764

217/782-6243

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER f: HIGHWAYSPART 518  
RELOCATION ASSISTANCE SERVICES AND PAYMENTS PROGRAM  
FOR STATE HIGHWAY PROJECTS

Section	
518.10	Purpose
518.20	Definitions
518.30	Incorporation by Reference
518.40	Review Procedures

**AUTHORITY:** Implementing Sections 3-107.1 through 3-107.1f and Section 4-511, and authorized by Section 3-107.1e, of the Illinois Highway Code [605 ILCS 5/3-107.1 through 3-107.1f and 4-511]; by Section 5-675 of the Civil Administrative Code of Illinois [20 ILCS 5/5-675]; by Sections 2, 2a, 3, 4 and 5 of the Displaced Person Relocation Act [310 ILCS 40/2, 2a, 3, 4 and 5]; and by Section 10-5-62 of the Eminent Domain Act [735 ILCS 30/10-5-62].

**SOURCE:** Peremptory rules adopted at 13 Ill. Reg. 7057, effective April 25, 1989; amended at 17 Ill. Reg. 283, effective December 23, 1993; old Part repealed at 32 Ill. Reg. 17796 and new Part adopted at 32 Ill. Reg. 17800, effective October 31, 2008.

**Section 518.10 Purpose**

The purpose of this Part is to establish policies and procedures for the Illinois Department of Transportation, Division of Highways, when applying the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (the Uniform Act) (42 USC 4601 et seq.) to highway projects for which the State intends to provide State or federal financial assistance and that involve the displacement of persons, businesses, farm operators or nonprofit organizations. This Part establishes a means of providing relocation services and of making moving cost payments, replacement housing cost payments, and other expense payments to persons, businesses, farm operators or nonprofit organizations displaced as a result of programs designed for the benefit of the public. It is also designed to assure compliance with the federal requirements of the Uniform Act and the federal rules titled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs (49 CFR 24) to assure federal participation on federally-aided projects.

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**Section 518.20 Definitions**

The following definitions are in addition to those found in the incorporated material in Section 518.30 and apply for purposes of this Part:

"Central Bureau of Land Acquisition" – means the office of the Division responsible for developing, evaluating and interpreting the policies and procedures for planning and implementing the statewide land acquisition program and for advising, guiding and assisting the Regional Engineers and the districts on all program policies.

"Director" – means the Director of the Division of Highways or the Director's designee.

"District" – means a geographic subgroup of the Division of Highways. Each district has its own land acquisition office or bureau.

"Division" – means the Illinois Department of Transportation, Division of Highways.

"Regional Engineer" – means the Regional Engineer of any one of the 5 regional offices of the Division of Highways or the Regional Engineer's designee. A Regional Engineer is responsible for all actions within a region, which is comprised of one or two districts.

**Section 518.30 Incorporation by Reference**

This Part incorporates by reference 49 CFR 24, except subpart B, as of October 1, 2007, that is the basis and guideline for the development of the Division's policy for highway projects for which federal financial assistance may be requested and for relocation assistance advisory services and payments for persons, businesses, farms or nonprofit organizations displaced as a result of those projects. 49 CFR 24 is incorporated as a part of this Part and is effective as indicated, not including any later amendments or editions. Copies of the appropriate materials are available from the Division of Highways, Central Bureau of Land Acquisition, Room 210, 2300 South Dirksen Parkway, Springfield, Illinois 62764 or by calling 217/782-6243.

**Section 518.40 Review Procedures**

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Any aggrieved person may file a written request for review with the Regional Engineer in any case in which the person believes that the District has failed to properly consider his/her eligibility for relocation assistance advisory services or payments, or the amount of a payment required under this Part.

- a) If relocation assistance advisory services, payments, or the amount of the payment is denied, in whole or in part, the District will notify the aggrieved person in writing of the denial or revised amount of the claim, including the basis for the District's determination. The written notification will also inform the person of his/her right to request a review of the determination by the Regional Engineer and will include the procedures to be followed when requesting a review.
- b) An aggrieved person may file a written request for review within 90 calendar days after receipt of written notification of the District's determination. The request for review shall be filed with the Regional Engineer at the address provided in the written notification. If the aggrieved person does not file a request for review within 90 calendar days after receipt of written notification of the District's determination, the aggrieved person shall be deemed to have waived his/her opportunity to file a request for review. In that case, the determination will stand and the Division will take appropriate action to implement the determination and/or process the approved amount of the claim, if any, for payment. A written request for review will be considered regardless of form.
  - 1) Upon receipt of the request for review, the Regional Engineer will assign a date and place for the review meeting. Written notification of the date and place will be provided to the aggrieved person by certified mail, return receipt requested, at least 10 days prior to the scheduled date for review. The Regional Engineer cannot have been directly involved in the actions being reviewed.
  - 2) Prior to the review, the aggrieved person will be permitted to inspect and copy all materials pertinent to his/her review, except materials that are classified as confidential.
  - 3) The aggrieved person, or a representative, will be afforded a full opportunity to be heard and to present information or documentation in support of his/her position. Representation by another person will be at the sole expense of the aggrieved person.

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- 4) The Regional Engineer will render a decision based upon the facts presented and the law. Written notification of the decision will be sent by certified mail, return receipt requested, within 30 calendar days after the date of the review.
  - 5) If the Regional Engineer's decision upholds the denial of eligibility for relocation assistance advisory services or payments, in whole or in part, the written notification will detail the reasons supporting the denial and will also advise the aggrieved person of his/her right, if dissatisfied with the decision, to request a final review by the Director. If the aggrieved person does not request a final review within 30 calendar days after written notification of the decision, the aggrieved person shall be deemed to have waived his/her opportunity to file a request for a final review. In that case, the Regional Engineer's decision will stand and the District will take appropriate action to implement the decision and/or process the approved amount of the claim, if any, for payment.
- c) An aggrieved person may request a final review by notifying the Regional Engineer in writing at the address provided in the written notification of the decision. The Regional Engineer will forward the request to the Director. A written request for final review will be considered regardless of form.
- 1) Upon receipt of the request for a final review, the Director will assign a date and place for the final review meeting. Written notification of the date and place of the final review will be provided to the aggrieved person by certified mail, return receipt requested, at least 10 days prior to the scheduled date of the final review. The Director cannot have been directly involved in the action being reviewed.
  - 2) The aggrieved person, or representative, will be afforded a full opportunity to be heard and to present information or documentation in support of his/her position. Representation by another person will be at the sole expense of the aggrieved person.
  - 3) The disposition of the final review will be based upon the facts presented and the law. Written notification of the final decision and the reasons supporting the decision will be sent by certified mail, return receipt requested, within 30 calendar days after the date of the final review. The District will take appropriate action to implement the Director's

## DEPARTMENT OF TRANSPORTATION

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determination and/or process the approved amount of the claim, if any, for payment.

- 4) The Director's decision is final. The aggrieved person will be advised of his/her right to seek redress through judicial review.
- d) The Director may extend any time period provided in this Part for up to 30 days upon written request from either the aggrieved person or the Regional Engineer.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Control of Outdoor Advertising Adjacent to Primary and Interstate Highways
- 2) Code Citation: 92 Ill. Adm. Code 522
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
522.20	Amend
522.50	Amend
522.110	Amend
- 4) Statutory Authority: Implementing Section 9-112.1 and 9-112.2 of the Illinois Highway Code [605 ILCS 5/9-112.1 and 112.2 and Sections 1 through 8 and 10 of the Highway Advertising Control Act of 1971 [225 ILCS 440/1-8 and 10] and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1] and Section 14.01 of the Highway Advertising Control Act of 1971 [225 ILCS 440/14.01]; implementing Section 1 and authorized by Section 17 of the Airport Zoning Act [620 ILCS 25/1 and 17]
- 5) Effective Date of Amendments: October 30, 2008
- 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 Department's Office of Chief Counsel and Division of Highways and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 11578; July 25, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The Department made non-substantive grammatical changes to the text in agreement with JCAR.

At Section 522.20, in the definition of "Business Area", the Department italicized "an area zoned for business".

In the same Section, same definition, the Department also changed the underscored language in the definition to read as follows: "... commercial or industrial activities that

## DEPARTMENT OF TRANSPORTATION

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*is adjacent to and within 660 feet of an Interstate highway and that is in Township 41 North, Range 10 East of the Third Principal Meridian shall be deemed a business area".*

Finally, in the same Section, same definition, the Department added " [225 ILCS 440/3.12]" before the Public Act citation.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: By this Notice, the Department has amended this Part as follows:

At Section 522.20, the Department added language to provide for an excepted conforming sign site area within the municipal limits of Hoffman Estates as mandated by P.A. 095- 0340, effective January 1, 2008.

At Section 522.50, the Department deleted language that specified that sign owners with existing sign permits can improve their signs but cannot move their permitted signs from their current locations.

At Section 522.110, the Department added language that specified that owners of illegal or abandoned signs cannot circumvent the Department's rules by creating aliases, affiliates or subsidiary companies solely for the purpose of securing sign permits.

Also at Section 522.110, the Department corrected an inadvertent error made during the Department's last rulemaking. In the prior rulemaking, the Department changed the timeframe from 180-days to 3 years in which a permitted sign must be erected. The revision to Section 522.110 was inadvertently omitted.

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

Mr. Richard Hunter, Chief, Bureau of Land Acquisition  
Illinois Department of Transportation  
Division of Highways  
2300 South Dirksen Parkway, Room 103

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Springfield, Illinois 62764  
217/782-6243

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

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TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER f: HIGHWAYS

PART 522  
CONTROL OF OUTDOOR ADVERTISING ADJACENT TO  
PRIMARY AND INTERSTATE HIGHWAYS

SUBPART A: GENERAL PROVISIONS

Section

- 522.10 Purpose
- 522.20 Definitions

SUBPART B: PERMIT APPLICATION AND REGISTRATION  
PROCEDURES AND REQUIREMENTS

Section

- 522.30 Signs Requiring Permits and Registrations
- 522.40 Place of Filing
- 522.50 Permit Application Contents
- 522.60 Receipt of Application
- 522.70 Approval of Application
- 522.80 Denial of Application
- 522.90 Renewal of Permits
- 522.100 Registration of Existing Signs

SUBPART C: REVOCATION OF PERMITS

Section

- 522.110 Notice of Intent to Revoke
- 522.120 Reply of Permittee
- 522.130 Review Procedures
- 522.140 Issuance of the "30 Day Letter"

SUBPART D: STANDARDS FOR SIGNS

Section

- 522.150 Signs that may not be Erected or Maintained

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522.160	Standards for Official Notices
522.170	Standards for Directional Signs
522.175	Standards for Official Signs
522.180	Standards for Signs Advertising the Sale or Lease of Property on which they are Located
522.190	Standards for On Premise Signs
522.200	Standards for Signs in Business Areas
522.210	Standards for Signs Providing Information Relative to Lodging, Food, Outdoor Recreational Facilities or Automotive Service Facilities

## SUBPART E: SIGNS WHICH MAY BE ERECTED WITHOUT A PERMIT

Section	
522.220	Department Notification

## SUBPART F: MISCELLANEOUS PROVISIONS

Section	
522.230	Multiple Signs
522.240	Signs Facing Two or More Highways
522.ILLUSTRATION A	Expressway
522.ILLUSTRATION B	Unzoned Commercial or Industrial Area
522.ILLUSTRATION C	Interchange Spacing
522.ILLUSTRATION D	Spacing Measurement Along Pavement
522.ILLUSTRATION E	Spacing Measurement At Right Angle
522.ILLUSTRATION F	Spacing Measurement On Same Line
522.ILLUSTRATION G	Spacing Measurement Along Curves
522.ILLUSTRATION H	Map of Highway Districts (Repealed)
522.ILLUSTRATION I	Control Along Intersecting Highways
522.ILLUSTRATION J	Public Airports
522.ILLUSTRATION K	Spacing Measurement Monopole Back-to-Back V-Type
522.ILLUSTRATION L	Spacing Measurement Standard Back-to-Back V-Type
522.ILLUSTRATION M	District Offices and Counties

AUTHORITY: Implementing Sections 9-112.1 and 9-112.2 of the Illinois Highway Code [605 ILCS 5/9-112.1 and 112.2] and Sections 1 through 8 and 10 of the Highway Advertising Control Act of 1971 [225 ILCS 440/1-8 and 10] and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1] and Section 14.01 of the Highway Advertising Control Act

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of 1971 [225 ILCS 440/14.01]; implementing Section 1 and authorized by Section 17 of the Airport Zoning Act [620 ILCS 25/1 and 17].

SOURCE: Amended August 23, 1976; codified at 7 Ill. Reg. 12887; Part repealed, new Part adopted at 12 Ill. Reg. 16163, effective September 27, 1988; amended at 17 Ill. Reg. 7258, effective May 7, 1993; amended at 22 Ill. Reg. 7262, effective April 9, 1998; amended at 30 Ill. Reg. 15792, effective October 1, 2006; amended at 32 Ill. Reg. 17810, effective October 30, 2008.

## SUBPART A: GENERAL PROVISIONS

**Section 522.20 Definitions**

"Act" means the Highway Advertising Control Act of 1971 [225 ILCS 440].

"Air mile" means a distance of one mile as measured horizontally along a straight line between the sign and activity advertised.

*"Business Area" means any part of an area adjacent to and within 660 feet of the right-of-way which is at any time zoned for business, commercial or industrial activities under the authority of any law of this State; or not so zoned, but which constitutes an unzoned commercial or industrial area. However, as to signs along Interstate highways, the term "business area" includes only areas which are within incorporated limits of any city, village, or incorporated town, as such limits existed on September 21, 1959, and which are zoned for business, industrial or commercial use, or to portions of Interstate highways which traverse other areas where the land use, as of September 21, 1959, was clearly established by State law as business, industrial or commercial. (Section 3.12 of the Act [225 ILCS 440/3.12]) Areas which were zoned as of September 21, 1959 and were not specifically zoned for business, commercial or industrial use as of September 21, 1959 and were outside corporate limits on that date will not be considered business areas along Interstate highways. However, an area zoned for business, commercial or industrial activities that is adjacent to and within 660 feet of an Interstate highway and that is in Township 41 North, Range 10 East of the Third Principal Meridian shall be deemed a business area along Interstate highways. [225 ILCS 440/3.12] (See PA 95-0340, effective January 1, 2008.) Areas which were unzoned on September 21, 1959 may qualify as business areas along Interstate highways if the applicant can show, based on contemporaneous historical records of State actions (e.g., State sales tax records, required State*

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license fees, etc.) that the land on September 21, 1959 was and has continuously been used as business, commercial or industrial. Land unzoned on September 21, 1959, used for agricultural and/or farming activities, including but not limited to forestry, ranging, mining and mineral extraction activities, grazing, wayside produce stands and grain storage bins, will not be considered as business, commercial or industrial land uses for purposes of this Part. Additionally, unzoned land used for railroad tracks and minor sidings; transient or temporary activities not involving permanent buildings or structures; outdoor advertising structures; activities not visible from the main-traveled way; activities conducted in a building principally used as a residence (if the ground floor of the building is more than 50% residence); and activities located in buildings that are not integral to the business operation or that are used to store trade equipment and where business transactions do not take place will not be considered as business, commercial or industrial land uses.

"Code" means the Illinois Highway Code [605 ILCS 5].

*"Commercial or industrial activities," as used in the definition of "business area" and "unzoned commercial or industrial area," means those activities located within 660 feet of the nearest edge of the highway right-of-way generally recognized as commercial or industrial by zoning authorities in this State, such as land use devoted to commerce, industry, trade, manufacturing, highway service, highway business, warehouses, offices or similar uses, but for the purpose of determining unzoned commercial and industrial areas does not include the following:*

*Agricultural, forestry, ranging, mining and mineral extraction activities, grazing and farming activities, including wayside fresh produce stands and grain storage bins;*

*Railroad tracks and minor sidings;*

*Transient or temporary activities not involving permanent buildings or structures;*

Activities that are conducted in a building that is used to store trade equipment or that is not integral to the business operation where actual business transactions take place;

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*Outdoor advertising structures;*

*Activities not visible from a main-traveled way; and*

*Activities conducted in a building principally used as a residence (if the ground floor of the building is more than 50% residence). (Section 3.10 of the Act)*

"Damaged signs" means signs which require more than fifty percent replacement of the uprights, in whole or in part.

"Department" means the Illinois Department of Transportation.

"Directional signs" means signs containing directional information about public places owned or operated by Federal, State or local governments or their agencies; publicly or privately owned natural phenomena; historic, educational, cultural, scientific and religious sites; areas of natural or scenic beauty; or areas naturally suited for outdoor recreation which are deemed to be in the interest of the traveling public.

"Director" means the Director of the Division of Highways or the Director's designee.

"District" means any one of the District offices of the Department's Division of Highways. (See Illustration M.)

*"Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish; but does not include any of the foregoing activities when performed as an incident to the change of advertising message or normal maintenance or repair of a sign or sign structure. (Section 3.08 of the Act) Replacing more than fifty percent of the uprights, in whole or in part, or extending the height above ground, or similar activities which substantially change a sign such as anything which makes a sign more valuable; adding lighting, or making the sign bigger are examples, are not normal maintenance or repair.*

*"Expressway" means a primary highway constructed either as a freeway or tollway which has complete control of access. (See Illustration A.) (Section 3.04 of the Act)*

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"Federal, State or local law" means a Federal or State constitutional provision or statute, or an ordinance, rule or regulation enacted or adopted by a State or Federal agency or a political subdivision of a State pursuant to Federal or State constitution or statute.

"Illegal Signs" means signs not in compliance with this Part.

"Interchange" means a system of interconnecting roadways in conjunction with one or more grade separations, providing for the movement of traffic between two or more roadways on different levels.

*"Interstate highway" means any highway, including a tollway, designated by the Department and approved by the United States Department of Transportation as a part of the National System of Interstate and Defense Highways. A highway becomes a part of the National System of Interstate and Defense highways upon the date of approval of the Route Location Decision and the approval of the addition of the highway to the National System of Interstate and Defense Highways by the Governor and the United States Department of Transportation. (Section 3.02 of the Act)*

*"Main-traveled way" means the traveled way (i.e., pavement) of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas. (Section 3.05 of the Act)*

*"Maintain" means to allow to exist (Section 3.06 of the Act) and includes the periodic changing of advertising messages, customary maintenance and repair of signs and sign structures.*

"Multiple Message Sign" means an outdoor advertising sign that displays a series of message changes, regardless of the technology used. A multiple message sign provides for a fixed message of at least ten seconds in length with a transition time between message changes of three seconds or less. Multiple message signs contain a default design that will freeze the message in one position if a malfunction occurs.

*"Municipality" means a city, village, or incorporated town in the State of Illinois,*

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*but, "municipal" or "municipality" does not include a township, town when used as the equivalent of a township, incorporated town which has superseded a civil township, county, school district, park district, sanitary district or any other similar governmental district. (Section 3.09 of the Act)*

*"National Highway System" means the designation provided to certain highways by the Department, which designation must be approved by the United States Department of Transportation and the United States Congress for the purpose of providing an interconnected system of principal arterial routes that serve major population centers, international border crossings, ports, airports, public transportation facilities, other major travel destinations, and interstate and inter-regional travel and meet national defense requirements. (Section 3.15 of the Act)*

Non-conforming sign and/or sign structure means a registered sign and/or sign structure lawfully in existence as of the effective date of the Highway Advertising Control Act (July 1, 1972), but which thereafter does not conform with the provisions of the Act. The term also includes a lawful sign and/or sign structure rendered non-conforming by its subsequently becoming subject to the terms of the Act, including but not limited to its being adjacent to a highway, and not in a business area, that subsequently comes under control of the Act or a sign and/or sign structure that is rendered non-conforming by subsequent amendment to the Act (except that sign and/or sign structures subject to the amendments of Section 6.01 (Size) and 6.03 (Spacing) of the Act by Public Act 87-1205 shall not be rendered non-conforming, the text of this paragraph notwithstanding). A non-conforming sign and/or sign structure may be repaired, but neither a lawfully erected conforming sign and/or sign structure nor a lawfully erected non-conforming sign and/or sign structure may be compelled to be altered or removed under this Act until just compensation is paid to the sign and/or sign structure owner and the owner or owners of the property on which the sign and/or sign structure is erected.

"Official notices" means service club and religious notices and public service signs.

"Official signs" means signs erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by State law and erected by State or local government

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agencies or non-profit historical societies are considered official signs.

"On premise signs" means those signs which advertise activities conducted on the property on which they are located. Variety seed signs, fertilizer signs, and other agricultural product signs are not on premise signs unless at least fifty percent of the sign face is devoted to identification of the farm owner or operator. A sale or lease sign which also advertises any product or service not located upon and unrelated to the business of selling or leasing the land on which the sign is located is not an on premise sign.

"Parkland" means any publicly owned land which is designed or used as a public park, recreation area, conservation area, wildlife or waterfowl refuge or historic site.

*"Primary highway" means any highway, other than an Interstate highway, designated by the Department and approved by the United States Department of Transportation as a part of the Federal-Aid Primary System in existence on June 1, 1991 or any highway other than an Interstate highway that is not on such system that is on the National Highway System. (Section 3.03 of the Act)*

"Public utility signs" means warning signs, informational signs, notices or markers which are erected and maintained by publicly or privately owned public utilities as essential to their operations.

"Responsible Local Officials" means in urbanized areas, principal elected officials of general purpose local governments acting through the Metropolitan Planning Organization designated by the Governor; or in urban areas not within any urbanized area, principal elected officials of general purpose local governments.

"Rest area" means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

"Right-of-way" includes all property, whether it is presently being used for highway purposes or not, either under the jurisdiction of the Department or owned in fee by the State of Illinois or dedicated to the People of the State of Illinois for highway purposes, for which the jurisdiction, maintenance, administration, engineering or improvement of any highway situated thereon has been contracted by the Department to any other highway authority pursuant to Section 4-409 of

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

the Highway Code.

"Scenic area" means any area of particular scenic beauty or historical significance as determined by Federal, State or local officials having jurisdiction over said areas, and includes interests in land which have been acquired for the restoration, preservation and enhancement of scenic beauty.

*"Scenic byway" means that portion of a highway that has been nominated by the Department to the United States Department of Transportation for designation as a National Scenic Byway or All-American Road, and that has received national designation. "Scenic byway" does not include a section of primary or Interstate highway that traverses a business area at the time of nomination, except in accordance with Section 14.02(a)(5) of the Act. (Section 3.16 of the Act)*

"Secretary" means the Secretary of the Department.

"Service club and religious notices" means signs and notices relating to meetings of not for profit service clubs and charitable associations, or religious services.

*"Sign" means any outdoor sign, display, device, notice, figure painting, drawing, message, placard, poster, billboard, or other thing, which is designated, intended or used to advertise or inform, and of which any part of the existing or intended advertising or informative contents is or will be visible from any place on the main-traveled way of any portion of an Interstate or primary highway and which is within 660 feet of the nearest edge of the right-of-way of such highway. (Section 3.07 of the Act)*

*"Sign" also means any sign described above which is more than 660 feet from the nearest edge of such highway right-of-way, outside of an urban area, visible from any place on the main-traveled way of any portion of such highway and erected with purpose of its message being read from such main-traveled way. (Section 3.07 of the Act)*

"Sign Structure" means the assembled components which make up an outdoor advertising display, including but not limited to uprights, supports, display area and trim.

*"Unzoned commercial or industrial area" means any area adjacent to the right-of-way of a primary highway or an Interstate highway for purposes of Section*

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522.210, *not zoned by any county or municipality and which lies within 600 feet of any commercial or industrial activity. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway. On primary highways other than expressways, but not along Interstate highways for purposes of Section 522.210, where there is an unzoned commercial or industrial area on one side of the road in accordance with the preceding, the unzoned commercial or industrial area shall also include those lands directly opposite on the other side of the highway to the extent of the same dimensions except where such lands are publicly owned or controlled for scenic or recreational purposes. (See Illustration B.) (Section 3.11 of the Act)*

*"Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one state, that part of the urbanized area in each such state, or an urban place as designated by the Bureau of the Census of the United States having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census. (Section 3.14 of the Act)*

*"Visible" means capable of being seen (whether or not legible) without visual aid by persons of normal visual acuity. (Section 3.13 of the Act)*

(Source: Amended at 32 Ill. Reg. 17810, effective October 30, 2008)

SUBPART B: PERMIT APPLICATION AND REGISTRATION  
PROCEDURES AND REQUIREMENTS

**Section 522.50 Permit Application Contents**

- a) The permit application shall be a form prescribed by the Department. The application shall require the applicant to provide specific information necessary for the District to determine whether a permit should be issued.
- b) The following additional documentation shall be attached to the permit application:

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- 1) Verification as to the zoning classification for the proposed sign location. For proposed signs along Interstate highways, the documentation shall show whether the site lies within incorporated limits as they existed on September 21, 1959, and, if not, the land use as it was zoned on September 21, 1959. If the site was not zoned on September 21, 1959, or is not zoned now, this shall be stated.
  - A) Verification of zoning classification will consist of an ordinance, certification by the current zoning official and any other documentation that shows the zoning classification. The zoning certification must be submitted on the local governing agency's letterhead and must certify to the site's zoning classification as well as to the site's adherence to the September 21, 1959 criteria prescribed in subsection (b)(1) of this Section.
  - B) Zoning must be comprehensive. Signs will not be permitted on spot zoned land or land on which the only plausible commercial or industrial use is outdoor advertising.
  - C) When the application is for a site in a newly zoned commercial or industrial area and no commercial or industrial site development is evident, the zoning certification must certify to the site's pending commercial or industrial use. For purposes of this subsection (b)(1)(C), "newly zoned" means zoning that occurs from time-to-time when market conditions warrant a change of land use. As evidence of pending commercial or industrial use, the application shall include a site plan that has been approved by the local zoning authority. If an approved site plan does not exist, the application shall include a statement by the local zoning authority certifying to the existence of utilities, roads and streets necessary to support commercial or industrial development.
- 2) Illinois State Plane Coordinates or reference to latitude/longitude coordinates for the proposed location, as well as a site drawing of the proposed location. The site drawing for business area signs other than on premise signs and signs that advertise the sale or lease of property on which they are located shall contain at least the following information:

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- A) The exact location of the proposed sign.
- B) The distance as measured along the edge of the highway pavement between the proposed sign and the nearest existing signs other than on premise signs and signs that advertise the sale or lease of property on which they are located, whether illegal or legal as long as the sign is visible from any place on the main traveled way of the highway regardless of which highway the sign's message is primarily intended to face and, in urban areas, is within 660 feet of the nearest edge of the highway right-of-way. Measured distances between the proposed sign and the nearest existing sign shall be as prescribed in the table in subsection (b)(3).
- C) The distance between the proposed sign and the nearest edge of the highway right-of-way.
- D) For signs located along interstate highways or expressways outside incorporated municipalities, the distance between the proposed sign and the beginning or ending of pavement widening for any interchange within 600 feet.
- 3) For signs with display area in excess of 150 square feet, the site drawing shall contain all of the information required in subsection (b)(2) of this Section, and, in addition, shall be prepared or approved by a land surveyor licensed by the State of Illinois and shall show measured distances between the proposed sign and the nearest existing sign according to the following table:

Type of Highway	Distance (feet)
Interstate	600
Expressway	600
Primary (Unincorporated Area)	600
Primary (Incorporated Area)	400

- 4) For signs with display area in excess of 150 square feet, a current title commitment or other evidence of title showing ownership of the proposed site.
- 5) Whenever the applicant does not own the proposed site, a certificate of

## DEPARTMENT OF TRANSPORTATION

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good corporate standing from the Illinois Secretary of State's Office will be required, as well as a fully executed site lease, contract to purchase or other proof of consent to erect and maintain a sign on the site. Leases shall contain all riders. Rents need not be shown. All changes made to the lease, contract to purchase, or consent which are related to the requirements of this Part shall also be submitted to the District. Whenever the lease, contract to purchase or consent is not signed by the property owner, proof of authority shall also be provided. A lease, contract to purchase, or other form of consent to erect and maintain a sign that is subject to a permit being issued by the Department to erect a sign will be considered a valid and binding document. If the lease, contract to purchase or other consent to erect and maintain a sign is terminated prior to the erection of the sign, the permit is void.

- 6) For on-premise signs, a plat or survey shall be provided showing the location of the sign, the location of the activity being advertised, and the distance to the nearest edge of the highway right of way.
- 7) For signs that advertise the sale or lease of property on which they are located, a site drawing shall be provided showing the location of the sign and the distance to the nearest edge of the highway right-of-way.
- 8) For signs described by Section 522.210, the distance in air miles between the proposed sign and the activity advertised.
- 9) A copy of written notice by the applicant to the municipality where the sign is to be located, or to the county where the sign is to be located in an unincorporated area, of the fact that an application has been filed with the Department. A copy of the completed application form shall be forwarded to the municipality or county.
- 10) Remittance of the non-refundable application fee by check or money order payable to the Treasurer of the State of Illinois. *As of July 1, 1993, the application fee shall be as follows:*
  - A) *For signs of less than 150 square feet, the fee shall be \$50.*
  - B) *For signs of at least 150 but less than 300 square feet, the fee shall be \$100.*

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- C) *For signs of 300 or more square feet, the fee shall be \$200.*  
(Section 8 of the Highway Advertising Control Act of 1971) [225 ILCS 440/8]
- D) The square feet shall be measured by the smallest square, rectangle, triangle, circle, or combination that will encompass the entire display area. If one side of the sign provides for more display area than another, the measurements will be made on the larger side.
- 11) For signs to be located along Interstate highways in business areas on parcels of land located in areas which were unzoned on September 21, 1959, proof based on contemporaneous historical records of State actions that the land use on September 21, 1959 was business, commercial or industrial, must be submitted with the permit application.
- 12) When a permit has previously been issued for a specific sign at a specific site and the holder of that permit wishes to change that permitted sign in a manner that would require the issuance of a new permit, the applicant must provide a copy of the original permit application identifying the permit number and application approval. This type of application will also require the following:
- A) A statement that the application is being submitted in order to ~~move or~~ improve an existing permitted sign and that this action will not cause any violations pursuant to the requirements of the Act and this Part.
- B) The removal of the existing permitted sign will occur prior to the erection of any other sign approved as a result of this permit application.
- C) All other requirements of the Act and this Part are satisfied without conditions.
- c) The applicant shall certify that all of the information provided is true and accurate and that the applicant is not the owner of an abandoned or illegal sign as defined by this Part. This certification shall be supported by an oath or affirmation

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acknowledged by a notary public.

(Source: Amended at 32 Ill. Reg. 17810, effective October 30, 2008)

## SUBPART C: REVOCATION OF PERMITS

**Section 522.110 Notice of Intent to Revoke**

Whenever a District determines that grounds exist for the revocation of a permit or registration (including but not limited to false information in the application, errors in permit processing, failure to erect what was permitted, [classification as an owner of an illegal or abandoned sign](#), [use of aliases, affiliates or subsidiary companies to obtain permits](#), or any other violation of the Act or this Part), the District shall notify the permittee by certified mail of its intent to revoke the permit. This notice shall be called the "Notice of Intent to Revoke Permit" ("Notice") and shall inform the permittee that he has thirty calendar days from receipt of the notice to reply. The procedures in this Subpart shall not apply when a permit has expired without any sign being erected within [three years after](#)~~one hundred eighty days of~~ issuance.

(Source: Amended at 32 Ill. Reg. 17810, effective October 30, 2008)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY REPEALER

- 1) Heading of the Part: Professional Boxing Act
- 2) Code Citation: 68 Ill. Adm. Code 1370
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
1370.305	Repealed
1370.310	Repealed
1370.315	Repealed
1370.340	Repealed
1370.400	Repealed
1370.405	Repealed
1370.410	Repealed
1370.415	Repealed
1370.417	Repealed
1370.420	Repealed
1370.430	Repealed
1370.440	Repealed
1370.450	Repealed
1370.460	Repealed
1370.470	Repealed
- 4) Statutory Authority: Professional Boxing Act [225 ILCS 105]
- 5) Effective Date of Repealer: November 3, 2008
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they will expire: November 23, 2008, the effective date of the new Part 1371.
- 7) Date Filed in Index Department: November 3, 2008
- 8) A copy of the emergency repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Public Act 95-593, effective June 1, 2008, made significant changes to the Professional Boxing Act, including providing for the regulation of mixed martial arts contests and the removal of both the prohibition on ultimate fighting exhibitions and the exemption that allowed some martial arts/mixed martial arts (MA/MMA) contests to be held. Although the Department is adopting a comprehensive

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY REPEALER

overhaul of the administrative rules for the Act, emergency amendments were necessary to allow events to be held in the interim because of the removal of the exemption previously contained in Section 6 of the Act. Since sections were added to Part 1370 by emergency amendment, this emergency repealer is necessary to repeal those provisions.

- 10) A Complete Description of the Subjects and Issues Involved: Public Act 95-593, effective June 1, 2008, made significant changes to the Professional Boxing Act, including providing for the regulation of mixed martial arts contests. As a result of these changes and the need for a general overhaul and updating of the rules, the existing Part 1370 is being repealed and replaced with a new Part 1371.
- 11) Are there any proposed amendments to this Part pending? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1370.15	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.20	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.25	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.26	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.27	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.28	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.29	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.30	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.40	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.80	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.90	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.100	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.105	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.110	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.120	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.140	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.160	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.305	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.310	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.315	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.340	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.350	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.360	Repealed	32 Ill. Reg. 9457; July 7, 2008
1370.370	Repealed	32 Ill. Reg. 9457; July 7, 2008

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF EMERGENCY REPEALER

- 12) Statement of Statewide Policy Objectives: This rulemaking has no impact on local government.
- 13) Information and questions regarding this emergency repealer shall be directed to:

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

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

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

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Meat and Poultry Inspection Act
- 2) Code Citation: 8 Ill. Adm. Code 125
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
125.148	New Section
125.260	Amendment
125.380	Amendment
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute that Requires this Peremptory Rulemaking: The Meat and Poultry Inspection Act [225 ILCS 650]; the Federal Meat Inspection Act (21 USCA 661); the Federal Poultry Products Inspection Act (21 USCA 454); and 71 FR 43958
- 5) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650]
- 6) Effective Date: October 30, 2008
- 7) A Complete Description of the Subjects and Issues Involved: In order to maintain an "equal to" status with the federal meat and poultry products inspection program as required by the Federal Meat Inspection Act and the Poultry Products Inspection Act and by Section 16 of the Meat and Poultry Inspection Act, the Department is adopting amendments to the federal meat and poultry products inspection rules.

Food Safety and Inspection Service (FSIS) is conforming its regulations to the Agricultural Marketing Service (AMS) regulations, entitled, "Mandatory Country of Origin Labeling of Beef, Pork, Lamb, Chicken, Goat Meat, Perishable Agricultural Commodities, Peanuts, Pecans, Ginseng and Macademia Nuts". Therefore, FSIS is amending its regulations to require that a country of origin statement on the label of any meat or poultry product that is a covered commodity, as defined in AMS' interim final regulations (73 FR 45106), and is to be sold by a retailer, as also defined in AMS' interim final regulations. FSIS is also amending its regulations to provide that the addition of country of origin statements on labels of meat or poultry product covered commodities that are to be sold by covered retailers and that comply with the country of origin labeling requirements will be considered to be generically approved. FSIS is not amending its regulations or labeling policies for meat or poultry products that are non-covered commodities. The effective date of AMS' interim final rule for country of origin labeling is September 30, 2008. Therefore, in order to meet the deadline, FSIS is issuing this interim final rule.

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PEREMPTORY AMENDMENTS

FSIS is also amending its regulations to reference the most recent version of the National Institute of Standards and Technology (NIST) Handbook 133 that contains standards for determining the reasonable variations allowed for the declared net weight on labels of immediate containers of meat and poultry products; the procedures to be used to determine the net weight and net weight compliance of meat and poultry products; and related definitions. FSIS is also consolidating the separate net weight regulations for meat and poultry products in a new CFR part, applicable to both meat and poultry products.

This final rule does not incorporate by reference sections in Handbook 133 that concern the "wet tare" method for determining net weight. The "wet tare" method does not include free-flowing liquid as part of the product but as part of the tare weight. FSIS regards any solutions that are added to meat or poultry to be part of the product and considers free-flowing liquids to be an integral component of these products, and therefore uses the "dry tare", not the "wet tare" method.

- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed with the Index Department: October 30, 2008
- 10) A copy of the preemptory amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 11) This preemptory rulemaking is in compliance with Section 5-150 of the Illinois Administrative Procedure Act.
- 12) Are there any other proposed rulemakings pending on this Part? No
- 13) Statement of Statewide Policy Objectives: This preemptory amendment does not affect units of local government.
- 14) Information and questions regarding these preemptory amendments shall be directed to:

Linda Rhodes  
Department of Agriculture  
State Fairgrounds, P.O. Box 19281  
Springfield IL 62794-9281

Telephone: 217/785-5713

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

Facsimile: 217/785-4505

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

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PEREMPTORY AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER c: MEAT AND POULTRY INSPECTION ACTPART 125  
MEAT AND POULTRY INSPECTION ACTSUBPART A: GENERAL PROVISIONS FOR BOTH  
MEAT AND/OR POULTRY INSPECTION

Section	
125.10	Definitions
125.20	Incorporation by Reference of Federal Rules
125.30	Application for License; Approval
125.40	Official Number
125.50	Inspections; Suspension or Revocation of License
125.60	Administrative Hearings; Appeals (Repealed)
125.70	Assignment and Authority of Program Employees
125.80	Schedule of Operations; Overtime
125.90	Official Marks of Inspection, Devices and Certificates
125.100	Records and Reports
125.110	Exemptions
125.120	Disposal of Dead Animals and Poultry
125.130	Reportable Animal and Poultry Diseases
125.140	Detention; Seizure; Condemnation
125.141	Sanitation Standard Operating Procedures (SOP's)
125.142	Hazard Analysis and Critical Control Point (HACCP) Systems
125.143	Imported Products
125.144	Preparation and Processing Operations
125.145	Control of Listeria Monocytogenes in Ready-to-Eat Meat and Poultry Products
125.146	Consumer Protection Standards: Raw Products
125.147	Rules of Practice
<a href="#">125.148</a>	<a href="#">Quantity of Contents Labeling and Procedures and Requirements for Accurate Weights</a>

## SUBPART B: MEAT INSPECTION

Section	
125.150	Livestock and Meat Products Entering Official Establishments

## DEPARTMENT OF AGRICULTURE

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125.160	Equine and Equine Products
125.170	Facilities for Inspection
125.180	Sanitation (Repealed)
125.190	Ante-Mortem Inspection
125.200	Post-Mortem Inspection
125.210	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220	Humane Slaughter of Animals
125.230	Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.250	Marking Products and Their Containers
125.260	Labeling, Marking and Containers
125.270	Entry into Official Establishment; Reinspection and Preparation of Product
125.280	Meat Definitions and Standards of Identity or Composition
125.290	Transportation
125.295	Imported Products (Repealed)
125.300	Special Services Relating to Meat and Other Products
125.305	Exotic Animal Inspection

## SUBPART C: POULTRY INSPECTION

Section	
125.310	Application of Inspection
125.320	Facilities for Inspection
125.330	Sanitation
125.340	Operating Procedures
125.350	Ante-Mortem Inspection
125.360	Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370	Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380	Labeling and Containers
125.390	Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400	Definitions and Standards of Identity or Composition
125.410	Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PEREMPTORY AMENDMENTS

SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; preemptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; preemptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; preemptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; preemptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; preemptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; preemptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; preemptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; preemptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; preemptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; preemptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; preemptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; preemptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; preemptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; preemptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; preemptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; preemptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; preemptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; preemptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; preemptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; preemptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; preemptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; preemptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; preemptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; preemptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; preemptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; preemptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; preemptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; preemptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; preemptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; preemptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; preemptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; preemptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; preemptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; preemptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; preemptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; preemptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; preemptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; preemptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; preemptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; preemptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; preemptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; preemptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; preemptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; preemptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; preemptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; preemptory amendment at 15 Ill. Reg. 3117,

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PEREMPTORY AMENDMENTS

effective September 3, 1991; preemptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; preemptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; preemptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; preemptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; preemptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; preemptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; preemptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; preemptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; preemptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; preemptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; preemptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; preemptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; preemptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; preemptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; preemptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; preemptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; preemptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; preemptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; preemptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; preemptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; preemptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; preemptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; preemptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; preemptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; preemptory amendment at 19 Ill. Reg. 16866, effective December 22, 1995; preemptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; preemptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; preemptory amendment at 20 Ill. Reg. 12634, effective September 5, 1996; preemptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; preemptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; preemptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; preemptory amendment at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1, 1997; preemptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; preemptory amendment at 21 Ill. Reg. 12686, effective August 28, 1997; preemptory amendment at 21 Ill. Reg. 14575, effective October 22, 1997; preemptory amendment at 22 Ill. Reg. 3602, effective February 2, 1998; preemptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998; preemptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; preemptory amendment at 22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; preemptory amendment at 23 Ill. Reg. 10880, effective August 19, 1999; preemptory amendment at 24 Ill. Reg. 3933, effective February 22, 2000; preemptory amendment at 24 Ill. Reg. 5699, effective March 14, 2000; preemptory amendment at 24 Ill. Reg. 6734, effective April 14, 2000; amended

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at 24 Ill. Reg. 7197, effective April 27, 2000; preemptory amendment at 24 Ill. Reg. 14074, effective August 30, 2000; preemptory amendment at 24 Ill. Reg. 14451, effective September 15, 2000; preemptory amendment at 25 Ill. Reg. 7341, effective April 26, 2001; preemptory amendment at 25 Ill. Reg. 12434, effective September 13, 2001; preemptory amendment at 25 Ill. Reg. 15444, effective November 19, 2001; preemptory amendment at 26 Ill. Reg. 980, effective January 11, 2002; preemptory amendment at 26 Ill. Reg. 7750, effective May 10, 2002; amended at 27 Ill. Reg. 10205, effective July 1, 2003; preemptory amendment at 27 Ill. Reg. 13634, effective July 28, 2003; emergency amendment at 27 Ill. Reg. 14197, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; preemptory amendment at 27 Ill. Reg. 15172, effective September 15, 2003; preemptory amendment at 27 Ill. Reg. 17281, effective November 1, 2003; preemptory amendment at 27 Ill. Reg. 18270, effective November 14, 2003; amended at 28 Ill. Reg. 2131, effective February 1, 2004; preemptory amendment at 28 Ill. Reg. 3513, effective February 6, 2004; preemptory amendment at 28 Ill. Reg. 11934, effective August 5, 2004; preemptory amendment at 28 Ill. Reg. 15694, effective November 30, 2004; preemptory amendment at 28 Ill. Reg. 16368, effective December 6, 2004; preemptory amendment at 29 Ill. Reg. 2479, effective February 1, 2005; amended at 29 Ill. Reg. 5661, effective April 13, 2005; preemptory amendment at 29 Ill. Reg. 15645, effective October 7, 2005; amended at 29 Ill. Reg. 18432, effective October 28, 2005; preemptory amendment at 29 Ill. Reg. 20580, effective November 29, 2005; preemptory amendment at 29 Ill. Reg. 21058, effective December 21, 2005; preemptory amendment at 30 Ill. Reg. 2400, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 16081, effective September 25, 2006; preemptory amendment at 31 Ill. Reg. 5149, effective March 16, 2007; preemptory amendment at 31 Ill. Reg. 12624, effective August 20, 2007; preemptory amendment at 31 Ill. Reg. 16763, effective December 10, 2007; preemptory amendment at 32 Ill. Reg. 590, effective January 1, 2008; preemptory amendment at 32 Ill. Reg. 17831, effective October 30, 2008.

SUBPART A: GENERAL PROVISIONS FOR BOTH  
MEAT AND/OR POULTRY INSPECTION**[Section 125.148 Quantity of Contents Labeling and Procedures and Requirements for Accurate Weights](#)**

[The Department incorporates by reference 9 CFR 442 \(2008\).](#)

(Source: Added by preemptory rulemaking at 32 Ill. Reg. 17831, effective October 30, 2008)

## SUBPART B: MEAT INSPECTION

## DEPARTMENT OF AGRICULTURE

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**Section 125.260 Labeling, Marking and Containers**

- a) The Department incorporates by reference 9 CFR 317.1 through 317.2(j)(10), 317.2(j)(12) through 317.4(f)(2), [317.5](#), 317.6, 317.8, 317.10 through 317.13, 317.17 through 317.24, 317.300, 317.302, 317.308, 317.309, 317.312, 317.313, 317.343, 317.344, 317.345, 317.354, 317.356, 317.360, 317.361, 317.362, 317.363, 317.369, 317.380, 317.400 (2004; 69 FR 34913, effective July 31, 2004; 69 FR 48799, effective November 30, 2004; 69 FR 74405, effective January 13, 2005; 71 FR 1683, effective January 11, 2006; 72 FR 9651, effective March 5, 2007; [73 FR 50701, effective September 30, 2008](#); [73 FR 52189, effective October 9, 2008](#)).
- b) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3) and (k)(3), (4), (5) and (9) of the Act.
- c) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- d) The Department shall approve temporary labeling as stated in 9 CFR 317.4(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the labels before the expiration of the temporary approval.
- e) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act [225 ILCS 470] and the rules adopted thereto (8 Ill. Adm. Code 600).
- f) Any Type I establishment is authorized to use generically approved labeling for meat and poultry products as defined in subsection (h) of this Section without the labeling being submitted for approval to the Department, provided the labeling is in accordance with this Section and shows all mandatory features in a prominent manner as required in 9 CFR 317.2 and 381 and is not otherwise false or misleading.
- g) The Department shall select samples of generically approved labeling from the records maintained by official establishments to determine compliance with

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labeling requirements. Any finding of false or misleading labeling shall institute the proceedings prescribed in 225 ILCS 650/13.

- h) Generically approved labeling is labeling that complies with the following:
- 1) Labeling for a product that has a product standard as specified in 9 CFR 319 and 381 or the Standards and Labeling Policy Book and does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees, or is not a domestic product labeled in a foreign language;
  - 2) Labeling for single-ingredient products, such as beef steak or lamb chops, that does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees or is not a domestic product labeled with a foreign language;
  - 3) Labeling for containers of products sold under contract specifications to federal government agencies that the product is not offered for sale to the general public, provided that the contract specifications include specific requirements with respect to labeling and are made available to the inspector-in-charge;
  - 4) Labeling for shipping containers that contain fully labeled immediate containers, provided that the labeling complies with 9 CFR 316.13 and 381.127;
  - 5) Labeling for products not intended for human food, provided it complies with 9 CFR 325, 381.152(c) and 381.193;
  - 6) Meat inspection legends;
  - 7) Inserts, tags, liners, pasters and similar devices containing printed or graphic matter and for use or to be placed within containers and coverings of products, provided the devices contain no reference to product and bear no misleading feature;
  - 8) Labeling for consumer test products not intended for sale;

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- 9) Labeling that was previously approved by the Department as sketch labeling, and the final labeling was prepared without modification or with the following modifications:
- A) All features of the labeling are proportionately enlarged or reduced provided that all minimum size requirements specified in applicable regulations are met and the labeling is legible;
  - B) The substitution of any unit of measurement with its abbreviation or the substitution of any abbreviation with its unit of measurement, e.g., "lb." for "pound" or "oz." for "ounce" or of the word "pound" for "lb." or "ounce" for "oz.";
  - C) A master or stock label has been approved where the name and address of the distributor are omitted and the name and address are applied before being used (in that case, the words "prepared for" or similar statement must be shown together with the blank space reserved for the insertion of the name and address when the labels are offered for approval);
  - D) Wrappers or other covers bearing pictorial designs, emblematic designs or illustrations, e.g., floral arrangements, illustrations of animals, fireworks, etc., are used with approved labeling (The use of the designs will not make necessary the application of labeling not otherwise required.);
  - E) A change in the language or the arrangement of directions pertaining to the opening of containers or the serving of the product;
  - F) The addition, deletion or amendment of a dated or undated coupon, a cents-off statement, cooking instructions, packer product code information or the UPC product code information;
  - G) Any change in the name or address of the packer, manufacturer or distributor that appears in the signature line;
  - H) Any change in the net weight, provided the size of the net weight statement complies with CFR 317.2 and 318.121;

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- I) The addition, deletion or amendment of recipe suggestions for the product;
- J) Any change in punctuation;
- K) Newly assigned or revised establishment numbers for a particular establishment that has been approved by the Department;
- L) The addition or deletion of open dating information;
- M) A change in the type of packaging material on which label is printed;
- N) Brand name changes, provided that there are no design changes, the brand name does not use a term that connotes quality or other product characteristics, the brand name has no geographic significance, and the brand name does not affect the name of the product;
- O) The deletion of the word "new" on new product labeling;
- P) The addition, deletion or amendment of special handling statements, provided that the change is consistent with CFR 317.2(k) and 318.125(a);
- Q) The addition of safe handling instructions as required by CFR 317.2(1) and 381.125(b);
- R) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label, provided that the change in quantity of ingredients complies with any minimum or maximum limits for the use of the ingredients prescribed in CFR 318, 319 and 381.147;
- S) Changes in the color of the labeling, provided that sufficient contrast and legibility remain;

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- T) A change in the product vignette, provided that the change does not affect mandatory labeling information or misrepresent the content of the package;
  - U) A change in the establishment number by a corporation or parent company for an establishment under its ownership;
  - V) Changes in nutrition labeling that only involve quantitative adjustments to the nutrition labeling information, except for serving sizes, provided the nutrition labeling information maintains its accuracy and consistency;
  - W) Deletion of any claim, and the deletion of non-mandatory features or non-mandatory information; and
  - X) The addition or deletion of a direct translation of the English language into a foreign language for products marked "for export only".
- i) With regard to the incorporated language in 9 CFR 317.6, the extension of time for exhausting existing stocks of labels is not applicable since all labels presently in use are in compliance with the rules of this Part.
  - j) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (2004)).
  - k) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
  - l) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 317.13 so that the inspector can notify the inspector at the destination point.

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- m) Labeling of custom slaughter and/or custom processed meat and/or meat products and the containers containing custom slaughtered and/or custom processed meat and/or meat products shall be as set forth in Section 5 of the Act.
- n) References in the incorporated language to 9 CFR 312 shall be interpreted to mean in accordance with Section 125.90.

(Source: Amended by peremptory rulemaking at 32 Ill. Reg. 17831, effective October 30, 2008)

## SUBPART C: POULTRY INSPECTION

**Section 125.380 Labeling and Containers**

- a) The Department incorporates by reference 381.115 through 381.127, 381.129 through 381.132(f), [381.133](#), 381.134, 381.136 through 381.140, 381.144(a) through 381.144(d), 381.400, 381.402, 381.408, 381.409, 381.412, 381.413, 381.443; 381.444; 381.445; 381.454; 381.456, 381.460, 381.461, 381.462, 381.463, 381.469, 381.480, 381.500 (2004; 69 FR 28042, effective July 31, 2004; 69 FR 57899, effective November 30, 2004; 69 FR 4405, effective January 13, 2005; 71 FR 1683, effective January 11, 2006; 72 FR 9651, effective March 5, 2007; [73 FR 50701](#), effective [September 30, 2008](#); [73 FR 52189](#), effective [October 9, 2008](#)).
- b) Each shipping container and each immediate container containing inspected and passed poultry and/or poultry products shall be identified in accordance with the labeling provisions of this Section.
- c) Immediate containers of poultry products packed in, bearing or containing any chemical additive shall bear a label naming the additive and the purpose of its use.
- d) Labels for consumer packages shall be approved if the label is not misbranded in accordance with Section 2.20 of the Act and is in compliance with this Section.
- e) The specific statements listed in 9 CFR 381.121 may be added to the label for the shipping container at the option of the licensee.
- f) The quantity of contents as shown on the label shall be in compliance with the

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Weights and Measures Act and the rules adopted thereto (8 Ill. Adm. Code 600).

- g) No labeling or containers that have not been approved shall be used until a final decision is rendered at an administrative hearing in accordance with Section 19 of the Act.
- h) The Department shall approve the manufacture of a device or label containing an official mark of inspection provided the device or label is in compliance with Section 125.90.
- i) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- j) The Department shall approve temporary labeling as stated in 9 CFR 381.132(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the permanent labels before the expiration of the temporary approval.
- k) A copy of each label submitted for approval shall be accompanied by a statement showing the common or usual names, the kinds and percentages of the ingredients comprising the poultry product and a statement indicating the method or preparation of the product with respect to which the label is to be used. Laboratories used for chemical analysis shall be any approved laboratory as defined in 8 Ill. Adm. Code 20.1.
- l) The Department does not approve terms for generic labeling and considers the approval of terms as generic to be the responsibility of the federal government.
- m) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (1997)).
- n) Labels and devices approved for use pursuant to Section 125.90 and this Section shall be disposed of only when such labels or devices have been mutilated or damaged or when the establishment ceases to do business. Such labels and devices shall be given to the inspector for disposition.

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- o) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 381.138 so that the inspector can notify the inspector at the destination point.
- p) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
- q) Labeling of custom slaughtered and/or custom processed poultry and/or poultry products and the containers containing custom slaughtered and/or custom processed poultry products shall be as set forth in Section 5 of the Act.
- r) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3), (4), (5) and (9) of the Act.

(Source: Amended by peremptory rulemaking at 32 Ill. Reg. 17831, effective October 30, 2008)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

STRATTON OFFICE BUILDING  
ROOM C-1  
SPRINGFIELD, ILLINOIS  
11:00 A.M.  
NOVEMBER 18, 2008

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

*If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706  
Email: [jcar@ilga.gov](mailto:jcar@ilga.gov)  
Phone: 217/785-2254*

**RULEMAKINGS CURRENTLY BEFORE JCAR**

**PROPOSED RULEMAKINGS**

Aging

1. Community Care Program (89 Ill. Adm. Code 240)
  - First Notice Published: 32 Ill. Reg. 10667 – 7/18/08
  - Expiration of Second Notice: 12/14/08

Central Management Services

2. Extensions of Jurisdiction (80 Ill. Adm. Code 305)
  - First Notice Published: 32 Ill. Reg. 14367 – 9/5/08
  - Expiration of Second Notice: 12/14/08

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
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Children and Family Services

3. Background Checks (89 Ill. Adm. Code 385)
  - First Notice Published: 32 Ill. Reg. 12138 – 8/1/08
  - Expiration of Second Notice: 12/14/08
4. Office of the Inspector General (OIG) (89 Ill. Adm. Code 430)
  - First Notice Published: 32 Ill. Reg. 6962 – 5/2/08
  - Expiration of Second Notice: 12/14/08

Deaf and Hard of Hearing Commission

5. Interpreter for the Deaf Licensure Act of 2007 (68 Ill. Adm. Code 1515)
  - First Notice Published: 32 Ill. Reg. 9432 – 7/7/08
  - Expiration of Second Notice: 12/30/08

Education

6. Incentive Grants for Agricultural Science Teacher Education (23 Ill. Adm. Code 75)
  - First Notice Published: 32 Ill. Reg. 14489 – 9/5/08
  - Expiration of Second Notice: 12/6/08

Employment Security

7. Claims, Adjudication, Appeals and Hearings (56 Ill. Adm. Code 2720)
  - First Notice Published: 32 Ill. Reg. 10693 – 7/18/08
  - Expiration of Second Notice: 12/7/08
8. Determination of Unemployment Contributions (56 Ill. Adm. Code 2770)
  - First Notice Published: 32 Ill. Reg. 10738 – 7/18/08
  - Expiration of Second Notice: 12/7/08
9. Payment of Benefits (56 Ill. Adm. Code 2830)
  - First Notice Published: 32 Ill. Reg. 10751 – 7/18/08
  - Expiration of Second Notice: 12/7/08
10. Recovery of Benefits (56 Ill. Adm. Code 2835)
  - First Notice Published: 32 Ill. Reg. 10758 – 7/18/08
  - Expiration of Second Notice: 12/7/08

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

11. Claimant's Availability for Work, Ability to Work and Active Search for Work (56 Ill. Adm. Code 2865)  
-First Notice Published: 32 Ill. Reg. 10768 – 7/18/08  
-Expiration of Second Notice: 12/7/08

Financial and Professional Regulation

12. Consumer Installment Loan Act (38 Ill. Adm. Code 110)  
-First Notice Published: 32 Ill. Reg. 13127 – 8/8/08  
-Expiration of Second Notice: 12/7/08
13. Actuarial Opinion and Memorandum (50 Ill. Adm. Code 1408)  
-First Notice Published: 32 Ill. Reg. 13397 – 8/15/08  
-Expiration of Second Notice: 12/11/08
14. Valuation of Life Insurance Policies Including the Use of Select Mortality Factors (50 Ill. Adm. Code 1409)  
-First Notice Published: 32 Ill. Reg. 13986 – 8/29/08  
-Expiration of Second Notice: 12/11/08
15. Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits (50 Ill. Adm. Code 1412)  
-First Notice Published: 32 Ill. Reg. 13991 – 8/29/08  
-Expiration of Second Notice: 12/11/08
16. Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values (50 Ill. Adm. Code 1414)  
-First Notice Published: 32 Ill. Reg. 13998 – 8/29/08  
-Expiration of Second Notice: 12/11/08

Higher Education

17. Program Review (Private Colleges and Universities) (23 Ill. Adm. Code 1030)  
-First Notice Published: 32 Ill. Reg. 13911 – 8/29/08  
-Expiration of Second Notice: 12/13/08
18. Approval of New Units of Instruction, Research and Public Service at Public Institutions (23 Ill. Adm. Code 1050)  
-First Notice Published: 32 Ill. Reg. 13941 – 8/29/08

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

-Expiration of Second Notice: 12/13/08

Natural Resources

19. Special White-Tailed Deer Season for Disease Control (17 Ill. Adm. Code 675)
  - First Notice Published: 32 Ill. Reg. 13827 – 8/22/08
  - Expiration of Second Notice: 12/3/08
20. Late-Winter Deer Hunting Season (17 Ill. Adm. Code 680)
  - First Notice Published: 32 Ill. Reg. 13832 – 8/22/08
  - Expiration of Second Notice: 12/3/08
21. The Taking of Wild Turkeys – Spring Season (17 Ill. Adm. Code 710)
  - First Notice Published: 32 Ill. Reg. 14378 – 9/5/08
  - Expiration of Second Notice: 12/5/08
22. Viral Hemorrhagic Septicemia Virus (17 Ill. Adm. Code 875)
  - First Notice Published: 32 Ill. Reg. 14401 – 9/5/08
  - Expiration of Second Notice: 12/14/08
23. Special Wildlife Funds Grant Program (17 Ill. Adm. Code 3060)
  - First Notice Published: 32 Ill. Reg. 14413 – 9/5/08
  - Expiration of Second Notice: 12/5/08

Public Health

24. Lead Poisoning Prevention Code (Repealer) (77 Ill. Adm. Code 845)
  - First Notice Published: 31 Ill. Reg. 15451 – 11/26/07
  - Expiration of Second Notice: 11/19/08
25. Lead Poisoning Prevention Code (77 Ill. Adm. Code 845)
  - First Notice Published: 31 Ill. Reg. 15543 – 11/26/07
  - Expiration of Second Notice: 11/19/08

Revenue

26. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
  - First Notice Published: 32 Ill. Reg. 8561 – 6/13/08
  - Expiration of Second Notice: 11/29/08

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

27. Use Tax (86 Ill. Adm. Code 150)  
-First Notice Published: 32 Ill. Reg. 8563 – 6/13/08  
-Expiration of Second Notice: 11/29/08

Secretary of State

28. Procedures and Standards (92 Ill. Adm. Code 1001)  
-First Notice Published: 32 Ill. Reg. 9819 – 7/11/08  
-Expiration of Second Notice: 12/13/08
29. Illinois Safety Responsibility Law (92 Ill. Adm. Code 1070)  
-First Notice Published: 32 Ill. Reg. 13838 – 8/22/08  
-Expiration of Second Notice: 11/20/08

**PEREMPTORY RULEMAKINGS**

Central Management Services

30. Pay Plan (80 Ill. Adm. Code 310)  
-Notice Published: 32 Ill. Reg. 16591 – 10/10/08
31. Pay Plan (80 Ill. Adm. Code 310)  
-Notice Published: 32 Ill. Reg. 16872 – 10/17/08

Human Services

32. Food Stamps (89 Ill. Adm. Code 121)  
-Notice Published: 32 Ill. Reg. 16905 – 10/17/08

**EXPEDITED CORRECTIONS**

Employment Security

33. Payment of Benefits (56 Ill. Adm. Code 2830)  
-Notice of Correction: 32 Ill. Reg. 16932 – 10/17/08

Health Facilities Planning Board

34. Narrative and Planning Policies (77 Ill. Adm. Code 1100)  
-Notice Published: 32 Ill. Reg. 17276 – 10/31/08

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

**AGENCY RESPONSES**Public Health

35. Child Health Examination Code (77 Ill. Adm. Code 665; 32 Ill. Reg. 8778) (Emergency)
36. Child Health Examination Code (77 Ill. Adm. Code 665; 32 Ill. Reg. 99055) (Emergency)

State Board of Investment

37. State (of Illinois) Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700; 32 Ill. Reg. 6840)

## DEPARTMENT OF PUBLIC HEALTH

NOTICE OF RESPONSE TO AN OBJECTION OF THE  
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Child Health Examination Code
- 2) Code Citation: 77 Ill. Adm. Code 665
- 3) 

<u>Section Numbers:</u>	<u>Action:</u>
665.10	Refusal
665.20	Refusal
665.30	Refusal
665.40	Refusal
665.50	Refusal
- 4) Date Notice of Emergency Rules Published in the Register: June 20, 2008; 32 Ill. Reg. 9055
- 5) Date JCAR Statement of Objection Published in the Register: August 1, 2008; 32 Ill. Reg. 13092
- 6) Summary of Action Taken by the Agency: The Joint Committee on Administrative Rules objected to the Department of Public Health using emergency rulemaking to adopt its amendments titled Child Health Examination Code (77 Ill. Adm. Code 665; 32 Ill. Reg. 9055) because the only emergency that exists in this instance appears to be agency created. The Public Act requiring the affected eye exams was effective 1/1/08, yet the Department of Public Health waited over 6 months to adopt the emergency rule.

Department of Public Health Response: The Department will not amend or withdraw the rules in response to the Objection.

While the effective date of the Public Act requiring an eye exam was January 1, 2008, the amendatory veto override did not occur until October 10, 2007, which left less than 3 months to complete the administrative rules. The Department of Public Health and the Illinois State Board of Education, in conjunction with the Illinois Optometric Association and the Illinois Education Association, began immediately to work on amending the Child Health Examination Code to include the required eye examination. Department of Public Health internal rule development and approval procedures, including review by legal staff and State Board of Health Rules Committee and State Board of Health, may take up to 12 months to accomplish, particularly if, as in this case, the process involves development of new program requirements, designation of staff responsibilities, and consultation with outside entities such as the Illinois Optometric Association and the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF RESPONSE TO AN OBJECTION OF THE  
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Illinois Education Association (entities involved in drafting legislation). In order to notify parents of the new eye exam requirements within a reasonable amount of time, the Department proceeded with the filing of emergency rules.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 28, 2008 through November 3, 2008 and have been scheduled for review by the Committee at its November 18, 2008 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
12/11/08	<u>Department of Financial and Professional Regulation</u> , Actuarial Opinion and Memorandum (50 Ill. Adm. Code 1408)	8/15/08 32 Ill. Reg. 13397	11/18/08
12/11/08	<u>Department of Financial and Professional Regulation</u> , Valuation of Life Insurance Policies Including the Use of Select Mortality Factors (50 Ill. Adm. Code 1409)	8/29/08 32 Ill. Reg. 13986	11/18/08
12/11/08	<u>Department of Financial and Professional Regulation</u> , Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits (50 Ill. Adm. Code 1412)	8/29/08 32 Ill. Reg. 13991	11/18/08
12/11/08	<u>Department of Financial and Professional Regulation</u> , Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values (50 Ill. Adm. Code 1414)	8/29/08 32 Ill. Reg. 13998	11/18/08
12/13/08	<u>Board of Higher Education</u> , Program Review (Private Colleges and Universities) (23 Ill. Adm. Code 1030)	8/29/08 32 Ill. Reg. 13911	11/18/08
12/13/08	<u>Board of Higher Education</u> , Approval of New Units of Instruction, Research and Public	8/29/08 32 Ill. Reg.	11/18/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

	Service at Public Institutions (23 Ill. Adm. Code 1050)	13941	
12/13/08	<u>Secretary of State, Procedures and Standards</u> (92 Ill. Adm. Code 1001)	7/11/08 32 Ill. Reg. 9819	11/18/08
12/14/08	<u>Department of Children and Family Services, Background Checks</u> (89 Ill. Adm. Code 385)	8/1/08 32 Ill. Reg. 12138	11/18/08
12/14/08	<u>Department of Children and Family Services, Office of the Inspector General (OIG)</u> (89 Ill. Adm. Code 430)	5/2/08 32 Ill. Reg. 6962	11/18/08
12/14/08	<u>Department of Natural Resources, Viral Hemorrhagic Septicemia Virus</u> (17 Ill. Adm. Code 875)	9/5/08 32 Ill. Reg. 14401	11/18/08
12/14/08	<u>Department of Central Management Services, Extensions of Jurisdiction</u> (80 Ill. Adm. Code 305)	9/5/08 32 Ill. Reg. 14367	11/18/08
12/14/08	<u>Department on Aging, Community Care Program</u> (89 Ill. Adm. Code 240)	7/18/08 32 Ill. Reg. 10667	11/18/08

## DEPARTMENT OF PUBLIC HEALTH

NOTICE OF RESPONSE TO AN OBJECTION OF THE  
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Child Health Examination Code
- 2) Code Citation: 77 Ill. Adm. Code 665
- 3) Section Number: 665.140                      Action: Refusal
- 4) Date Notice of Emergency Rules Published in the Register: June 13, 2008; 32 Ill. Reg. 8778
- 5) Date JCAR Statement of Objection Published in the Register: August 8, 2008; 32 Ill. Reg. 13365
- 6) Summary of Action Taken by the Agency: On July 15, 2008, the Joint Committee on Administrative Rules objected to the Illinois Department of Public Health's (IDPH) use of emergency rulemaking to adopt rules titled Child Health Examination Code (77 Ill. Adm. Code 665; 32 Ill. Reg. 8778) because the only emergency that exists in this instance appears to be agency created. Public Act 95-422 changed the health examination dates effective 8/24/07. IDPH waited more than 9 months to adopt emergency rules implementing that statute.

Department of Public Health Response: The Department will not amend or withdraw the rule in response to the Objection. This rulemaking affects every Illinois family with school-age children. It was imperative that the Department obtain concurrence on the rulemaking from the Illinois State Board of Education (ISBE), which implements the Child Health Examination Code. The change in the law would require the same children who had received physical examinations as fifth graders to receive physical examinations again as sixth graders for the 2008-2009 school year. The emergency rulemaking minimized the burden on families by “grandfathering” those children who had received 5<sup>th</sup> grade health examinations from the 6<sup>th</sup> grade entry requirements.

By the filing of emergency amendments, Illinois families were allowed sufficient time during the summer months to ensure that school-age children received physical examinations in accordance with the rules before the start of the 2008-2009 school year.

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

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

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the Third Quarter of 2008. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

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

Community Water Supply  
Computer Software  
Construction Contractors  
Enterprise Zones  
Exempt Organizations  
Food  
Governmental Bodies  
Gross Receipts  
Leasing

Manufacturing Machinery &  
Equipment  
Medical Appliances  
Miscellaneous  
Nexus  
Prepaid Sales Tax  
Products of Photoprocessing  
Repairs  
Returns  
Sale at Retail

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

Service Occupation Tax

Use Tax

Telecommunications Excise Tax

Trade-Ins

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at [www.tax.illinois.gov/](http://www.tax.illinois.gov/).

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

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

Marie Keeney  
Legal Services Office  
101 West Jefferson Street  
Springfield, Illinois 62794

217/782-2844

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## COMMUNITY WATER SUPPLY

ST 08-0116-GIL 08/12/2008 This letter concerns sales of tangible personal property used in the construction or maintenance of a community water supply. See 35 ILCS 105/3-5(34) and 35 ILCS 120/2-5(39).

## COMPUTER SOFTWARE

ST 08-0118-GIL 08/22/2008 If all the criteria listed in subsection (a)(1)(A)-(E) of Section 130.1935 are met, then neither a transaction involving the licensing of software nor the subsequent software updates will be considered a taxable retail sale subject to Retailers' Occupation and Use Tax. See 86 Ill. Adm. Code 130.1935.

ST 08-0130-GIL 09/24/2008 A license of canned software is subject to Retailers' Occupation Tax liability if all of the criteria for an exempt license of canned software set out in 86 Ill. Adm. Code 130.1935(a)(1) are not met. See 86 Ill. Adm. Code 130.1935.

ST 08-0131-GIL 09/24/2008 A license of canned software is subject to Retailers' Occupation Tax liability if all of the criteria for an exempt license of canned software set out in 86 Ill. Adm. Code 130.1935(a)(1) are not met. See 86 Ill. Adm. Code 130.1935.

## CONSTRUCTION CONTRACTORS

ST 08-0105-GIL 07/23/2008 Construction contractors who physically incorporate tangible personal property into real estate owned by exempt organizations or governmental entities that hold tax exempt "E" numbers can purchase such property tax free by providing their suppliers with the certification described in 86 Ill. Adm. Code 130.2075(d). See 86 Ill. Adm. Code Section 130.2075.

ST 08-0106-GIL 07/23/2008 Construction contractors who physically incorporate tangible personal property into real estate owned by exempt organizations or governmental entities that hold tax exempt "E" numbers can purchase such

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

property tax free by providing their suppliers with the certification described in 86 Ill. Adm. Code 130.2075(d). See 86 Ill. Adm. Code Section 130.2075.

ST 08-0111-GIL 07/28/2008 When a construction contractor permanently affixes tangible personal property to real property, the contractor is deemed the end user of that tangible personal property. As the end user, the contractor incurs Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 130.1940 and 86 Ill. Adm. Code 130.2075.

## ENTERPRISE ZONES

ST 08-0110-GIL 07/24/2008 The building materials exemption conferred at 35 ILCS 120/5k is explained in Department regulations found at 86 Ill. Adm. Code 130.1951.

## EXEMPT ORGANIZATIONS

ST 08-0132-GIL 09/24/2008 Exclusively religious, educational, or charitable organizations are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2005.

## FOOD

ST 08-0108-GIL 07/24/2008 Items such as vitamins or dietary supplements are considered foods and may qualify for the low State rate of tax. See 86 Ill. Adm. Code 130.310. (This is a GIL)

ST 08-0109-GIL 07/24/2008 Items such as vitamins or dietary supplements are considered foods and may qualify for the low State rate of tax. See 86 Ill. Adm. Code 130.310. (This is a GIL)

## GOVERNMENTAL BODIES

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

ST 08-0119-GIL 08/25/2008 The amount of gross receipts received by a retailer as a reimbursement of a coupon issued by the federal government through the TV Converter Box Program and used to help pay for the cost of certified converter boxes are exempt from sales tax. See FY Bulletin 2009-01.

## GROSS RECEIPTS

ST 08-0129-GIL 09/15/2008 Pending amendments to Section 130.2145 explain when charges for banquet room rentals made in conjunction with the provision of food and beverages are a component of gross receipts subject to tax.

ST 08-0133-GIL 09/26/2008 In computing Retailers' Occupation Tax liability, no deductions shall be taken by a taxpayer from gross receipts on account of the cost of the property sold, or any other cost of doing business. See 86 Ill. Adm. Code 130.410.

## LEASING

ST 08-0123-GIL 09/03/2008 Information regarding tax liabilities in leasing situations may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.210.

ST 08-0124-GIL 09/03/2008 Information regarding tax liabilities in leasing situations may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.210.

ST 08-0128-GIL 09/12/2008 Lessors who are otherwise engaged in the business of selling like-kind property incur Retailers' Occupation Tax liability on all their sales, including sales of items coming off lease that are no longer needed for their rental inventories. See 86 Ill. Adm. Code 130.2013(h).

ST 08-0138-GIL 09/30/2008 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220.

## MANUFACTURING MACHINERY &amp; EQUIPMENT

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

ST 08-0005-PLR 09/26/2008 A manufacturing process is the production of articles of tangible personal property by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. See 86 Ill. Adm. Code 130.330.

## MEDICAL APPLIANCES

ST 08-0126-GIL 09/05/2008 Products that qualify as medicines, drugs, or medical appliances are taxed at the reduced State sales tax rate of 1%. See 86 Ill. Adm. Code 130.310.

## MISCELLANEOUS

ST 08-0114-GIL 08/11/2008 The Board of Appeals administers a voluntary disclosure program that provides for limited liabilities for participants who come forward and disclose their tax liabilities. See 86 Ill. Adm. Code 210.126.

ST 08-0125-GIL 09/03/2008 Whether to issue a private letter ruling in response to a letter ruling request is within the discretion of the Department. See 2 Ill. Adm. Code 1200.110(a)(4).

ST 08-0121-GIL 09/02/2008 This letter responds to an annual survey. See 86 Ill. Adm. Code Parts 130, 140, 150 and 271.

## NEXUS

ST 08-0104-GIL 07/23/2008 This letter discusses nexus. See *Quill Corp. v. North Dakota*, 112 S.Ct. 1904 (1992) and references the Department's drop shipment rules.

ST 08-0113-GIL 07/28/2008 This letter discusses nexus. See *Quill Corp. v. North Dakota*, 112 S.Ct. 1904 (1992).

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## PREPAID SALES TAX

ST 08-0117-GIL 08/14/2008 Informational Bulletin FY2008-09 provides that "sales for resale" made at the pump are no longer authorized after May 1, 2008.

ST 08-0127-GIL 09/10/2008 This letter describes the manner in which prepaid sales tax on motor fuel is collected and remitted. See 86 Ill. Adm. Code 130.551.

## PRODUCTS OF PHOTOPROCESSING

ST 08-0134-GIL 09/26/2008 This letter discusses the taxation of photoprocessing. See 35 ILCS 120/2-15.

## REPAIRS

ST 08-0135-GIL 09/29/2008 This letter discusses the taxation of express warranties and extended warranties. See 86 Ill. Adm. Code 140.141 and 86 Ill. Adm. Code 140.301.

ST 08-0136-GIL 09/29/2008 This letter discusses the taxability of maintenance agreements. See 86 Ill. Adm. Code 140.301.

## RETURNS

ST 08-0137-GIL 09/30/2008 A manufacturer or wholesaler whose products are sold by numerous distributors in Illinois may assume the responsibility of collecting and remitting Retailers' Occupation Tax on behalf of all sales made by those distributors under the provisions of 86 Ill. Adm. Code 130.550. See 86 Ill. Adm. Code 130.550.

## SALE AT RETAIL

ST 08-0112-GIL 07/28/2008 Generally, sales of "do-it-yourself" trailer kits are subject to Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.101.

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## SERVICE OCCUPATION TAX

ST 08-0107-GIL 07/23/2008 This letter concerns tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.

ST 08-0115-GIL 08/11/2008 Under the Service Occupation Tax, servicemen are taxed on tangible personal property transferred incident to a sale of service. See 86 Ill. Adm. Code Part 140.

## TELECOMMUNICATIONS EXCISE TAX

ST 08-0122-GIL 09/02/2008 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code Part 495. (This is a GIL)

## TRADE-INS

ST 08-0120-GIL 08/26/2008 This letter discusses advance trade-ins relating to motor vehicles purchased at an auction. See 86 Ill. Adm. Code 130.455.

## USE TAX

ST 08-0103-GIL 07/23/2008 By giving away tangible personal property in Illinois, the donor makes a taxable use of the property and is subject to Use Tax on the cost price of the property purchased to be given away. See 86 Ill. Adm. Code 150.305(c).

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

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

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the Third Quarter of 2008. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

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

Apportionment – Sales Factor  
Base Income  
Commercial Domicile  
Credits – Foreign Tax  
Deficiencies  
Public Law 86-272/Nexus  
Residency/Nonresidency

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50 cents per page for each page over one.

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at [www.tax.illinois.gov](http://www.tax.illinois.gov).

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006 and 2007 are available for \$3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

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

Linda Settle  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson Street  
Springfield, Illinois 62794  
217/782-7055

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## APPORTIONMENT – SALES FACTOR

- IT 08-0022-GIL 07/16/2008 Application of sales factor statute effective in 2008 to service provider explained.
- IT 08-0023-GIL 07/21/2008 Throwback rule applied to various situations.
- IT 08-0025-GIL 08/01/2008 Sourcing of membership fees under new sales factor statutes discussed.
- IT 08-0028-GIL 09/19/2008 In the provision in IITA Section 304(a)(3)(C-5)(iii)(a) regarding a dealer in an item of tangible personal property, the phrase "within the meaning of Section 475" clarifies the meaning of "dealer."

## BASE INCOME

- IT 08-0024 GIL 07/22/2008 Tax treatment of rental of condominium in determining federal adjusted gross income of the owner is generally followed in determining base income for Illinois income tax purposes.

## COMMERCIAL DOMICILE

- IT 08-0002-PLR 07/10/2008 The commercial domicile of a qualified settlement fund is at the location of the court creating and administering the fund.

## CREDITS – FOREIGN TAX

- IT 08-0027-GIL 09/17/2008 Correct computation of income double taxed by Illinois and Minnesota explained.

## DEFICIENCIES

- IT 08-0021-GIL 07/08/2008 Reduction in tax liability payable to another state, resulting in a decrease in the credit allowed for taxes paid to other states, does not open a new limitations period in the manner of a federal change.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

PUBLIC LAW 86-272/NEXUS

IT 08-0020-GIL      07/03/2008      Activities described in the request are not protected activities under Public Law 86-272.

RESIDENCY/NONRESIDENCY

IT 08-0026 GIL      08/01/2008      Illinois residents working abroad remain taxable on income from all geographic sources.

## PROCLAMATIONS

**2008-417****Chicago Music Awards Day**

WHEREAS, the Annual Chicago Music Awards has been the primary organization that expressly honors Illinois entertainers in various music genres such as: Pop, Rock, Gospel, R&B, Blues, Jazz, Reggae, Country Western, Latin, Opera, Dance Classical, Polka, Kids and other World Music; and

WHEREAS, on Sunday, January 18, 2009, Martin's International Culture, in association with NBC and several sponsors, will present the 28<sup>th</sup> Anniversary of the Chicago Music Awards at the Park West Theatre, located at 322 West Armitage in Chicago; and

WHEREAS, the Music Awards was founded in 1981 by Ephraim M. Martin, a journalist, entrepreneur and television personality, to honor reggae and other world-beat music, arts and cultures, but has expanded so that all categories of music performed in Illinois can be better appreciated; and

WHEREAS, the Awards Ceremony encourages high standards of performance, conduct and professionalism, and exhibits the wealth of talent Illinois has to offer:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 18, 2009 as **CHICAGO MUSIC AWARDS DAY** in Illinois.

Issued by the Governor October 24, 2008

Filed by the Secretary of State October 31, 2008.

**2008-418****Career and Technical Education Month**

WHEREAS, a commitment to career and technical education helps to ensure that Illinois has a strong, well-trained workforce that enhances productivity in business and industry, and solidifies the state's leadership in the national and international marketplaces; and

WHEREAS, providing citizens with career and technical education can stimulate the growth and vitality of businesses and industries by preparing workers for the occupations forecasted to experience the largest and fastest growth in the next decade; and

WHEREAS, individual citizens benefit from a career and technical education because it enables them to find satisfying careers suited to their own skills and interests,

## PROCLAMATIONS

provides technical skills that allow them to excel in their chosen careers and teaches leadership skills that serve them on the job, at home and in the community; and

WHEREAS, for over 60 years, the Illinois Association for Career and Technical Education (IACTE), the only association in Illinois dedicated to the support and service of career and technical educators, has been committed to the betterment of the profession, and to providing visibility and assistance for vocational and technical education; and

WHEREAS, each year, the IACTE celebrates Career and Technical Education Month to promote the advancement of the career and technical education profession in this state. The theme for this year's month is "CTE: Building Blocks for a Successful Career":

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 2009 as **CAREER AND TECHNICAL EDUCATION MONTH** in Illinois, and encourage all citizens to become familiar with the services and benefits offered by career and technical education programs in our state, and to support and participate in these programs to enhance individual work skills and productivity.

Issued by the Governor October 27, 2008

Filed by the Secretary of State October 31, 2008.

**2008-419****Latino Fashion Week**

WHEREAS, Latinos have always been a significant part of fashion as avid consumers and with the coveted looks of designers Oscar De La Renta, Carolina Herrera and Narciso Rodriguez just to name a few; and

WHEREAS, Latino and Caribbean designers continue to assert themselves in defining and influencing the world of fashion, and the attention of the fashion world will be focused on the City of Chicago from October 27 to November 2 during the 2<sup>nd</sup> Chicago Latino Fashion Week. This seven-day event will include runway and retail trunk shows, cocktail receptions, educational seminars and much more; and

WHEREAS, the 2<sup>nd</sup> Chicago Latino Fashion week will feature local Latino models and provide a showcase for a number of Latino designers, including Orlando Espinoza, James De Colon, Anna Fong, Carol Pineiro, Elda De La Rosa, Horacio Nieto, Jorge Del

## PROCLAMATIONS

Busto, Felix Poll, Susie Garcia, Tommie Hernandez, Lilliam Landrom, Soledad Designs, Wanda Cobar, and more; and

WHEREAS, Chicago Latino Fashion Week celebrates unity and diversity and offers creative show production and mutually beneficial marketing partnerships with some of the most affluent decision makers, buyers, retailers, and associations including the Great North Michigan Avenue Association, the different Chambers of Commerce, nightclubs and members of the national and international press from around the world and television media coverage; and

WHEREAS, the completion of the first Chicago Latino Fashion Week led to many new opportunities for local designers and models, and the 2<sup>nd</sup> Chicago Latino Fashion Week will only build on that momentum and success; and

WHEREAS, another successful Chicago Latino Fashion Week will conclude a week of exciting and culturally enlightening events on November 2<sup>nd</sup> by paying tribute to old Hollywood Latino glamour with "A Tribute to Latino Legends of Hollywood" featuring a showcase of Spring 2009 collections and couture pieces by participating designers inspired by their favorite Latino Hollywood figure, celebrity guests, and legendary actress Rita Moreno, who will receive the honorary Hollywood Icon Award:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 27, 2008 – November 2, 2008 as **LATINO FASHION WEEK** in Illinois, in celebration of the 2<sup>nd</sup> Chicago Latino Fashion Week and in recognition of the invaluable cultural and economic contributions Latinos make to our state.

Issued by the Governor October 27, 2008

Filed by the Secretary of State October 31, 2008.

**2008-420**

**Dr. Ernst Chester Bone Day**

WHEREAS, Experience Works is a national, nonprofit organization established in 1965 that provides training and employment services for more than 125,000 mature workers in all 50 states and Puerto Rico each year; and

WHEREAS, each year, the organization hosts the Experience Works Prime Time Awards Program - the only national program that honors the contributions of working seniors - to recognize one outstanding older worker from each state, the District of

## PROCLAMATIONS

Columbia, and Puerto Rico and to help remove barriers to employment and dispel negative stereotypes about older workers; and

WHEREAS, Ernst Chester Bone, M.D., age 93, was recently chosen as the 2008 Outstanding Older Worker for Illinois; and

WHEREAS, Dr. Bone had his first job at the age of 8. He went on to teach high school chemistry and physics before accepting a position at Illinois College. He served in the U.S. Navy during WW II and the Korean War, completing his medical degree in between his military service. In 1947, he opened a medical practice and over the years delivered more than 4,000 babies; and

WHEREAS, when he was 74, his doctor advised him to slow down. Dr. Bone retired from his medical practice, but began a new career as a consultant for Illinois' Department of Human Services where he reviews medical evidence to determine disability; and

WHEREAS, over the years, Dr. Bone's contributions to the medical field have earned him many awards and honors, including Jacksonville's Citizen of the Year, Illinois' Family Physician of the Year, and the Social Security Administration Regional Commissioner's Award. The magazine "Good Housekeeping" named him one of the nation's top 10 physicians; and

WHEREAS, Dr. Bone and his wife continue to be involved in their community. He has led many fundraising efforts for colleges and organizations such as The Salvation Army and Tri-County United Way. A partial list of other service includes Presbyterian elder, a MacMurray College trustee for more than 25 years, and an Illinois State 4-H Alumnus; and

WHEREAS, in addition to spending time with his family, Dr. Bone enjoys hobbies such as horseback riding, golf, singing, acting, watercolor painting and traveling; and

WHEREAS, Dr. Bone attributes his success to his love of people and being of service to them. He is a wonderful example of how seniors who stay active, both mentally and physically, can continue to make valuable contributions to the workplace and to their communities. On November 20, Dr. Bone will be honored with a reception in Jacksonville at Passavant Hospital:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 20, 2008 as **DR. ERNST CHESTER BONE DAY** in Illinois, in honor of his lifetime

PROCLAMATIONS

of outstanding contributions to the State of Illinois and in recognition of all of our state's older workers.

Issued by the Governor October 30, 2008

Filed by the Secretary of State October 31, 2008.

# ILLINOIS ADMINISTRATIVE CODE

## Issue Index - With Effective Dates

Rules acted upon in Volume 32, Issue 46 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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