

2009

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.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 22, 2008	January 2, 2009
2	December 29, 2008	January 9, 2009
3	January 5, 2009	January 16, 2009
4	January 12, 2009	January 23, 2009
5	January 20, 2009	January 30, 2009
6	January 26, 2009	February 6, 2009
7	February 2, 2009	February 13, 2009
8	February 9, 2009	February 20, 2009
9	February 17, 2009	February 27, 2009
10	February 23, 2009	March 6, 2009
11	March 2, 2009	March 13, 2009
12	March 9, 2009	March 20, 2009
13	March 16, 2009	March 27, 2009
14	March 23, 2009	April 3, 2009
15	March 30, 2009	April 10, 2009
16	April 6, 2009	April 17, 2009
17	April 13, 2009	April 24, 2009
18	April 20, 2009	May 1, 2009
19	April 27, 2009	May 8, 2009
20	May 4, 2009	May 15, 2009
21	May 11, 2009	May 22, 2009
22	May 18, 2009	May 29, 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
23	May 26, 2009	June 5, 2009
24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
28	June 29, 2009	July 10, 2009
29	July 6, 2009	July 17, 2009
30	July 13, 2009	July 24, 2009
31	July 20, 2009	July 31, 2009
32	July 27, 2009	August 7, 2009
33	August 3, 2009	August 14, 2009
34	August 10, 2009	August 21, 2009
35	August 17, 2009	August 28, 2009
36	August 24, 2009	September 4, 2009
37	August 31, 2009	September 11, 2009
38	September 8, 2009	September 18, 2009
39	September 14, 2009	September 25, 2009
40	September 21, 2009	October 2, 2009
41	September 28, 2009	October 9, 2009
42	October 5, 2009	October 16, 2009
43	October 13, 2009	October 23, 2009
44	October 19, 2009	October 30, 2009
45	October 26, 2009	November 6, 2009
46	November 2, 2009	November 13, 2009
47	November 9, 2009	November 20, 2009
48	November 16, 2009	November 30, 2009
49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

Editor's Note: This is a reminder that January 2, 2009 is the final day to submit your Agency's Regulatory Agenda for the January 2, 2009 filing period.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Organ Donor Leave
- 2) Code Citation: 80 Ill. Adm. Code 332
- 3) Section Number: 332.4 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the Organ Donor Leave Act [5 ILCS 327]
- 5) A Complete Description of the Subjects and Issues Involved: This amendment brings the rules into compliance with Public Act 095-0354, which allows employees more than one hour to donate blood and more than 2 hours to donate blood platelets, in accordance with the Organ Donor Leave Act.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed amendment neither creates nor expands any State mandate on units of local government, school districts or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

217/785-1793

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None that are not already in place.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICESPART 332
ORGAN DONOR LEAVE

Section

332.1	Purpose
332.2	Definitions
332.3	Organ Donor
332.4	Blood Donor
332.5	Impact on Accumulated Benefit Time

AUTHORITY: Implementing and authorized by the Organ Donor Leave Act [5 ILCS 327].

SOURCE: Adopted at 27 Ill. Reg. 9013, effective May 23, 2003; amended at 33 Ill. Reg. _____, effective _____.

Section 332.4 Blood Donor

- a) On request, a participating employee may be entitled to use:
- 1) up to one hour [or more](#) to donate or attempt to donate blood every 56 days, and
 - 2) up to 2 hours [or more](#) to donate or attempt to donate blood platelets in accordance with appropriate medical standards established by the American Red Cross or other nationally recognized standards. Leave to donate blood platelets may not be granted more than 24 times in a 12-month period.
- b) An employee may be required to submit medical documentation to the employee's agency after donating or attempting to donate blood or blood platelets.
- c) [An employee may use leave only after obtaining approval from the employee's agency.](#)

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Long Term Care Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 153
- 3) Section Number: 153.125 Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking implements provisions of Public Act 95-0744 (Fiscal Year 2009 Budget Implementation Plan) relating to reimbursements to long term care facilities. Listed below are the proposed changes:
 - Effective August 1, 2008, socio-development component for Institutions for Mental Disease (IMDs) to be equal to 6.6% of the facility's nursing component rate as of January 1, 2006, multiplied by a factor of 3.53.
 - For skilled and intermediate care facilities, effective January 1, 2009, the per diem support component of the rates effective on January 1, 2008, computed using the most recent cost reports on file with HFS no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard Department methods, procedures, and inflators.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

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

217/557-7157

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid-certified long-term care facilities, skilled nursing facilities and Institutions for Mental Disease (IMDs)
 - 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 153

LONG TERM CARE REIMBURSEMENT CHANGES

Section

153.100	Reimbursement for Long Term Care Services
153.125	Long Term Care Facility Rate Adjustments
153.126	Long Term Care Facility Medicaid Per Diem Adjustments
153.150	Quality Assurance Review (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17817, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 11088, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to the Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; emergency expired November 27, 2006; amended at 30 Ill. Reg. 14315, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 18779, effective November 28, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 6954, effective April 26, 2007; emergency amendment at 32 Ill. Reg. 535, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 4105, effective March 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7761, effective May 5, 2008; amended at 32 Ill. Reg. 9972, effective June 27, 2008; amended at 33 Ill. Reg. _____, effective _____.

Section 153.125 Long Term Care Facility Rate Adjustments

- a) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates established on July 1, 1996 shall be increased by 6.8 percent for services provided on or after January 1, 1997.
- b) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1998, for services provided on or after that date, shall be increased by three percent. For nursing facilities (SNF/ICF) only, \$1.10 shall also be added to the nursing component of the rate.
- c) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1999, for services provided on or after that date, shall include:
 - 1) an increase of 1.6 percent for SNF/ICF, ICF/MR and developmental training rates;
 - 2) an additional increase of \$3.00 per resident day for ICF/MR rates; and
 - 3) an increase of \$10.02 per person, per month for developmental training

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

rates.

- d) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF rates shall be increased by \$4.00 per resident day for services provided on or after October 1, 1999.
- e) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF, ICF/MR and developmental training rates shall be increased 2.5 percent per resident day for services provided on or after July 1, 2000.
- f) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2001 shall be computed using the most recent cost reports on file with the Department no later than April 1, 2000, updated for inflation to January 1, 2001.
 - 1) The Uniform Building Value shall be as defined in 89 Ill. Adm. Code 140.570(b)(10), except that, as of July 1, 2001, the definition of current year is the year 2000.
 - 2) The real estate tax bill that was due to be paid in 1999 by the nursing facility shall be used in determination of the capital component of the rate. The real estate tax component shall be removed from the capital rate if the facility's status changes so as to be exempt from assessment to pay real estate taxes.
 - 3) For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.
 - 4) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under Section 153.125(f) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- g) Notwithstanding the provisions set forth in Section 153.100, intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), shall receive an increase in rates for residential services equal to a statewide average of 7.85 percent. Residential rates taking effect March 1, 2001, for services provided on or

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

after that date, shall include an increase of 11.01 percent to the residential program rate component and an increase of 3.33 percent to the residential support rate component, each of which shall be adjusted by the geographical area adjuster, as defined by the Department of Human Services (DHS).

- h) For developmental training services provided on or after March 1, 2001, for residents of long term care facilities, rates shall include an increase of 9.05 percent and rates shall be adjusted by the geographical area adjuster, as defined by DHS.
- i) Notwithstanding the provisions set forth in Section 153.100, daily rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 2.247 percent for services provided during the period beginning on April 11, 2002, and ending on June 30, 2002.
- j) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2002, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be reduced to the level of the rates in effect on April 10, 2002.
- k) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2002 will be 5.9 percent less than the rates in effect on June 30, 2002.
- l) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2003, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3.59 percent.
- m) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on July 1, 2003 shall be increased by 4 percent.
- n) Notwithstanding the provisions set forth in Section 153.100, pending the approvals described in this subsection (n), nursing facility (SNF/ICF) rates effective July 1, 2004 shall be 3.0 percent greater than the rates in effect on June 30, 2004. The increase is contingent on approval of both the payment

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

methodologies required under Article 5A-12 of the Public Aid Code [305 ILCS 5/5A-12] and the waiver granted under 42 CFR 433.68.

- o) Notwithstanding the provisions set forth in Section 153.100, the "Original Building Base Cost" for nursing facilities (SNF/ICF) which have been rented continuously from an unrelated party since prior to January 1, 1978, effective on July 1, 2004, shall be added to the capital rate calculation using the most recent cost reports on file with the Department no later than June 30, 2004. The "Original Building Base Cost" as defined in 89 Ill. Adm. Code 140.570 shall be calculated from the original lease information that is presently on file with the Department. This original lease information will be used to capitalize the oldest available lease payment from the unrelated party lease that has been in effect since prior to January 1, 1978, and continued to be in effect on December 31, 1999. Before the lease payment is capitalized, a 15 percent portion will be removed from the oldest available lease payment for movable equipment costs. After the lease payment is capitalized, a portion of the capitalized amount will be removed for land cost. The land cost portion is 4.88 percent. The remaining amount will be the facility's building cost. The construction/acquisition year for the building will be the date the pre-1978 lease began. The allowable cost of subsequent improvements to the building will be included in the original building base cost. The original building base cost will not change due to sales or leases of the facility after January 1, 1978.
- p) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on January 1, 2005 will be 3.0 percent more than the rates in effect on December 31, 2004.
- q) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates shall be increased by the difference between a facility's per diem property, liability and malpractice insurance costs as reported in the cost report that was filed with the Department and used to establish rates effective July 1, 2001, and those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations.
- r) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on January 1, 2006 for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3 percent.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- s) Notwithstanding the provisions set forth in Section 153.100, developmental training rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), effective on January 1, 2006 shall be increased by 3 percent.
- t) Notwithstanding the provisions set forth in Section 153.100, for facilities that are federally defined as Institutions for Mental Disease (see Section 145.30), a socio-development component rate equal to 6.6% of the nursing component rate as of January 1, 2006 shall be established and paid effective July 1, 2006. This rate shall become a part of the facility's nursing component of the Medicaid rate. While this rate may be adjusted by the Department, the rate shall not be reduced.
- u) Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the support component of the rates taking effect on January 1, 2008 shall be computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006.
- 1) Support rates taking effect on January 1, 2008 shall be adjusted based on audits of cost report data in accordance with 89 Ill. Adm. Code 140.582(b) and 140.590. The audited cost report data will be used to retroactively update the resulting support rate effective January 1, 2008, after the 45-day appeal period from Section 140.582(b) has passed.
- 2) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under this subsection (u) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- v) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning August 1, 2008, the socio-development component for facilities that are federally defined as Institutions for Mental Disease (see 89 Ill. Adm. Code 145.30) shall equal 6.6% of the facility's nursing component rate as of January 1, 2006, multiplied by a factor of 3.53.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- w) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning January 1, 2009, the support component for skilled and intermediate care facilities that was effective on January 1, 2008, computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard Department of Healthcare and Family Services methods, procedures and inflators.

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Homeowner Mortgage Revenue Bond Program
- 2) Code Citation: 47 Ill. Adm. Code 260
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
260.103	Amendment
260.104	Amendment
260.107	Amendment
260.108	Amendment
260.110	Amendment
260.201	Amendment
260.202	Repealed
260.203	Repealed
260.204	Amendment
260.205	Amendment
260.301	Repealed
260.302	Repealed
260.303	Repealed
260.304	Repealed
260.305	Repealed
260.401	Amendment
260.402	Amendment
260.403	Amendment
260.405	Amendment
260.407	Repealed
260.501	Amendment
260.502	Amendment
260.503	Repealed
260.506	Amendment
- 4) Statutory Authority: Authorized by Section 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805]
- 5) A Complete Description of the Subjects and Issues Involved: These amendments involve the administration of the Homeowner Mortgage Revenue Bond Program.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed amendments do not create, expand, or modify a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments, data, views or arguments concerning this rulemaking in writing to:
- Colleen Saccotelli
401 North Michigan Avenue, Suite 700
Chicago, Illinois 60611
- 312/836-5214
- 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: No new requirements
- C) Types of Professional skills necessary for compliance: No new requirements
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on a Regulatory Agenda because: the Illinois Housing Development Authority did not anticipate needing to amend these rules.

The full text of the Proposed Amendments are the same as the Emergency Amendments that begins on page 1512.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Ambulatory Surgical Treatment Center Licensing Requirements
- 2) Code Citation: 77 Ill. Adm. Code 205
- 3) Section Number: 205.530 Proposed Action:
Amendment
- 4) Statutory Authority: Ambulatory Surgical Treatment Center Act [210 ILCS 5]
- 5) A Complete Description of the Subjects and Issues Involved: Part 205 regulates ambulatory surgical treatment centers, including patient care, and the medical and other staff, including the staff of operating rooms. Public Act 94-915, enacted in 2006, amended the ASTC Act to mandate that a licensed registered nurse function as a circulating nurse during all invasive or operative procedures conducted in ASTCs. Public Act 94-861, also enacted in 2006, amended the Act to permit registered nurses to administer anesthesia under the supervision of a physician, podiatrist, or dentist.

Section 205.530 (Operative Care) is being amended to implement the statutory language of both Acts, including a statutory definition of "circulating nurse". "Requiring aseptic technique" was added to the statutory language to clarify that the circulating nurse will be moving from procedure to procedure without entering the sterile field surrounding each operative or invasive procedure.

The Section also is being amended to clarify language regulating the examination and disposal of tissue removal during surgery.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 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

DEPARTMENT OF PUBLIC HEALTH

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- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:
- Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
- 217/782-2043
e-mail: dph.rules@Illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: Ambulatory surgical treatment centers
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Registered nurse; physician
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2007

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITAL AND AMBULATORY CARE FACILITIES

PART 205
AMBULATORY SURGICAL TREATMENT CENTER LICENSING REQUIREMENTS

SUBPART A: GENERAL

Section	
205.110	Definitions
205.115	Incorporated and Referenced Materials
205.118	Conditions of Licensure
205.120	Application for Initial Licensure
205.125	Application for License Renewal
205.130	Approval of Surgical Procedures
205.135	Diagnostic Cardiac Catheterization Procedures

SUBPART B: OWNERSHIP AND MANAGEMENT

Section	
205.210	Ownership, Control and Management
205.220	Organizational Plan
205.230	Standards of Professional Work
205.240	Policies and Procedures Manual

SUBPART C: PERSONNEL

Section	
205.310	Personnel Policies
205.320	Presence of Qualified Physician
205.330	Nursing Personnel
205.340	Basic Life Support
205.350	Laboratory Services

SUBPART D: EQUIPMENT, SUPPLIES, AND FACILITY MAINTENANCE

Section	
205.410	Equipment

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205.420 Sanitary Facility

SUBPART E: GENERAL PATIENT CARE

Section

205.510 Emergency Care
205.520 Preoperative Care
205.530 Operative Care
205.540 Postoperative Care

SUBPART F: RECORDS AND REPORTS

Section

205.610 Clinical Records
205.620 Statistical Data

SUBPART G: LIMITED PROCEDURE SPECIALTY CENTERS

Section

205.710 Pregnancy Termination Specialty Centers
205.720 Personnel (Repealed)
205.730 General Patient Care (Repealed)
205.740 Preoperative Requirements (Repealed)
205.750 Postoperative Requirements (Repealed)
205.760 Reports (Repealed)

SUBPART H: LICENSURE PROCEDURES

Section

205.810 Complaints
205.820 Notice of Violation
205.830 Plan of Correction
205.840 Adverse Licensure Action
205.850 Fines and Penalties
205.860 Hearings

SUBPART I: BUILDING DESIGN, CONSTRUCTION STANDARDS,
AND PHYSICAL REQUIREMENTS

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Section

205.1310	Plant and Service Requirements
205.1320	General Considerations
205.1330	New Construction, Additions and Major Alterations
205.1340	Minor Alterations and Remodeling Changes
205.1350	Administration Department and Public Areas
205.1360	Clinical Facilities
205.1370	Support Service Areas
205.1380	Diagnostic Facilities
205.1390	Other Building Services
205.1400	Details and Finishes
205.1410	Construction, Including Fire-Resistive Requirements, and Life Safety

SUBPART J: MECHANICAL

Section

205.1510	General
205.1520	Thermal and Acoustical Insulation
205.1530	Steam and Hot Water Systems
205.1540	Air Conditioning, Heating and Ventilating Systems

SUBPART K: PLUMBING AND OTHER PIPING SYSTEMS

Section

205.1610	General
205.1620	Plumbing Fixtures
205.1630	Water System
205.1640	Drainage Systems
205.1650	Identification

SUBPART L: ELECTRICAL

Section

205.1710	General
205.1720	Switchboards and Power Panels
205.1730	Panelboards
205.1740	Lighting
205.1750	Receptacles (Convenience Outlets)
205.1760	Grounding

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205.1770 Equipment Installation in Special Areas
205.1780 Emergency Electric Service
205.1790 Fire Alarm System

205.TABLE A General Pressure Relationships and Ventilation Rates of Ambulatory Surgery Area

AUTHORITY: Implementing and authorized by the Ambulatory Surgical Treatment Center Act [210 ILCS 5].

SOURCE: Amended July 18, 1974; emergency amendment at 3 Ill. Reg. 10, p. 43, effective February 23, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 30, p. 371, effective July 23, 1979; amended at 5 Ill. Reg. 12756, effective November 4, 1981; amended at 6 Ill. Reg. 6220, 6225, and 6226, effective May 17, 1982; amended at 6 Ill. Reg. 10974, effective August 30, 1982; amended at 6 Ill. Reg. 13337, effective October 20, 1982; amended at 7 Ill. Reg. 7640, effective June 14, 1983; codified at 8 Ill. Reg. 9367; amended at 9 Ill. Reg. 12014, effective July 23, 1985; amended at 10 Ill. Reg. 8806, effective June 1, 1986; amended at 10 Ill. Reg. 21906, effective January 15, 1987; amended at 11 Ill. Reg. 14786, effective October 1, 1987; amended at 12 Ill. Reg. 3743, effective February 15, 1988; amended at 12 Ill. Reg. 15573, effective October 1, 1988; amended at 13 Ill. Reg. 16025, effective November 1, 1989; emergency amendment at 14 Ill. Reg. 5596, effective March 26, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13802, effective August 15, 1990; amended at 15 Ill. Reg. 17770, effective December 1, 1991; amended at 17 Ill. Reg. 3507, effective March 3, 1993; amended at 18 Ill. Reg. 11939, effective July 22, 1994; amended at 18 Ill. Reg. 17250, effective December 1, 1994; amended at 22 Ill. Reg. 9335, effective May 20, 1998; amended at 22 Ill. Reg. 22019, effective December 4, 1998; amended at 24 Ill. Reg. 2691, effective February 18, 2000; amended at 25 Ill. Reg. 7471, effective May 31, 2001; amended at 26 Ill. Reg. 16556, effective October 25, 2002; amended at 27 Ill. Reg. 13457, effective July 25, 2003; amended at 31 Ill. Reg. 7278, effective May 7, 2007; amended at 32 Ill. Reg. 14326, effective August 12, 2008; amended at 33 Ill. Reg. _____, effective _____.

SUBPART E: GENERAL PATIENT CARE

Section 205.530 Operative Care

- a) Surgical procedures shall be performed only by a qualified physician, dentist or podiatrist within the limits of the defined specific surgical practice privileges thatwhich have been granted to that individual by the consulting committee or a committee designated by the consulting committee.

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- b) Administration of Anesthesia
- 1) For the purposes of this Section, anesthesia shall include general anesthesia, intravenous sedation, spinal or epidural anesthesia, and any other specific anesthesia technique that is designated by the consulting committee.
 - 2) Anesthesia may be administered only by the following persons, each having been granted specific anesthesia privileges by the consulting committee or a committee designated by the consulting committee:
 - A) A qualified anesthesiologist (as defined in Section 205.110 of this Part.)
 - B) A physician licensed to practice medicine in all its branches.
 - C) A dentist who has been approved by the Department of Financial and Professional Regulation~~Registration and Education~~ to administer anesthesia for dental surgery only pursuant to Section 8.1 of the Illinois Dental Practice Act [225 ILCS 25](Ill. Rev. Stat. 1986, Supp., ch. 111, par. 2308.1).
 - D) A certified registered nurse anesthetist (as defined in Section 205.110 of this Part) who is implementing the orders of a qualified anesthesiologist, or the physician, dentist, or podiatrist who is performing the procedure. The qualified anesthesiologist, physician, dentist, or podiatrist who has ordered the anesthesia must be on the premises of the facility during the administration of the anesthesia.
 - E) A registered nurse. If the ASTC policy allows the registered nurse to deliver moderate sedation ordered by a physician licensed to practice medicine in all its branches, podiatrist, or dentist, the following are required:
 - i) The registered nurse must be under the supervision of a physician licensed to practice medicine in all its branches, podiatrist, or dentist during the delivery or monitoring of

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moderate sedation and have no other responsibilities during the procedure.

- ii) The registered nurse must maintain current Advanced Cardiac Life Support certification or Pediatric Advanced Life Support certification as appropriate to the age of the patient.
- iii) The supervising physician licensed to practice medicine in all its branches, podiatrist, or dentist must have training and experience in delivering and monitoring moderate sedation and possess clinical privileges at the ASTC to administer moderate sedation or analgesia.
- iv) The supervising physician licensed to practice medicine in all its branches, podiatrist, or dentist must remain physically present and available on the premises during the delivery of moderate sedation for diagnosis, consultation, and treatment of emergency medical conditions.
- v) The supervising physician licensed to practice medicine in all its branches, podiatrist, or dentist must maintain current Advanced Cardiac Life Support certification or Pediatric Advanced Life Support certification as appropriate to the age of the patient.
- vi) Local, minimal, and moderate sedation shall be defined by the Division of Professional Regulation of the Department of Financial and Professional Regulation. Registered nurses shall be limited to administering medications for moderate sedation at doses rapidly reversible pharmacologically as determined by rule by the Division of Professional Regulation of the Department of Financial and Professional Regulation. (Section 6.7(b) of the Act)
- vii) Nothing in the Act or this Section precludes a registered nurse from administering medication for the delivery of local or minimal sedation ordered by a physician licensed

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to practice medicine in all its branches, podiatrist, or dentist. (Section 6.7(a) of the Act)

- 3) An anesthesia assistant who is licensed as a physician's assistant pursuant to the Physician Assistant Practice Act of 1987 [225 ILCS 95](Ill. Rev. Stat. 1985, ch. 111, par. 4751 et seq.) may assist in the administration of anesthesia only under the direct supervision of a qualified anesthesiologist (as defined in Section 205.110 of this Part).
 - 4) The person administering anesthesia, or a person who has equivalent practice privileges, shall be present in the facility during the recovery of the patient to whom anesthesia was administered.
- c) Examination of Removed Tissues
- 1) All tissues removed during surgery shall be examined by a consulting pathologist, who shall provide a written report of the examination to the attending physician.
 - 2) A copy of the pathology report shall be filed in the patient's clinical record within seven days.
 - 3) The following tissues and materials are exempt from this requirement and do not need to be examined by a pathologist:
 - A) Foreskin, fingernails, toenails, and teeth ~~that, which~~ are removed during surgery.
 - B) Bone, cartilage, and soft tissue removed during the course of surgery and determined by the attending physician not to require pathological examination. ~~Bone, cartilage, normal skin, and scar tissue, which are coincidentally removed during the course of cosmetic or corrective surgery.~~
 - C) Cataract lenses ~~that, which~~ are removed during the course of eye surgery.
 - D) Foreign substances (e.g., wood, glass, pieces of metal, including previously inserted surgical hardware) ~~that, which~~ are removed

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during surgery.

- d) All x-rays, except those exempted by the consulting committee and as specified in the facility's policies and procedures manual, shall be read by a physician, podiatric physician, or dentist, each of whom shall have practice privileges at the facility, or by a consulting radiologist approved by the consulting committee. A copy of the x-ray report shall be filed in the patient's clinical record within seven days.
- e) *A registered nurse, qualified by training and experience in operating room nursing, shall be present in the operating room and function as the circulating nurse during all invasive or operative procedures requiring aseptic technique. As used in this subsection, "circulating nurse" means a registered nurse who is responsible for coordinating all nursing care, patient safety needs, and the needs of the surgical team in the operating room during an invasive or operative procedure requiring aseptic technique. (Section 6.5(2.5) of the Act)*

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Licensing
- 2) Code Citation: 11 Ill. Adm. Code 502
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
502.10	Amend
502.30	Amend
502.200	Amend
502.235	Amend
502.650	Amend
- 4) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to: add language pertaining to the availability of license applications, add intertrack employee, business agent and animal health technician to Section 502.30, modify language pertaining to the licensing of trainers and assistant trainers, correct the minimum age of an apprentice jockey to 16 (see Section 502.230), and add language to include services.
- 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 in this Part? No
- 11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo

ILLINOIS RACING BOARD

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Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Board did not anticipate the need for this rulemaking at the time the agendas were published.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 502
LICENSING

SUBPART A: PROCEDURE

Section	
502.10	Submission of Application
502.20	Complete Application
502.30	License Fees
502.40	Duration and Extent of Occupation Licenses
502.50	Rulings and Hearings
502.55	Denial of License
502.58	License to Participate

SUBPART B: STATUTORY GROUNDS FOR DENIAL OF A LICENSE

Section	
502.60	Denial of a License for Criminal Conviction
502.72	First-Time Applicant Who Has Been Convicted of a Crime
502.76	Prohibitions Against Persons on Conditional Discharge, Parole, Probation or Supervision
502.78	Probationary Nature of Licenses
502.80	Unqualified to Perform the Duties
502.90	Falsifying Answers or Omitting Facts
502.100	Just Cause
502.102	Burden of Going Forward
502.104	Denial of a License for Just Cause in Illinois or in Another Racing Jurisdiction

SUBPART C: GENERAL CRITERIA

Section	
502.110	Criteria for Determining Eligibility
502.115	Standards Required of All Applicants

ILLINOIS RACING BOARD

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SUBPART D: OWNERS

Section
502.120 Owners

SUBPART E: TRAINERS AND ASSISTANT TRAINERS

Section
502.200 Trainers and Assistant Trainers
502.210 Prospective Trainers or Assistant Trainers
502.220 Workers' Compensation

SUBPART F: JOCKEYS AND APPRENTICE JOCKEYS

Section
502.230 Jockeys and Apprentice Jockeys
502.235 Apprentice Jockeys, Criteria for Eligibility
502.238 Apprentice Contract or Certificate

SUBPART G: DRIVERS

Section
502.250 Harness Driver
502.260 Prospective Harness Drivers
502.270 "Q" Licenses
502.280 "P" Licenses
502.290 "A" Licenses

SUBPART H: OTHER LICENSEES

Section
502.300 Veterinarians
502.320 Veterinary Assistant
502.350 Farriers (Blacksmiths)
502.380 Exercise Riders
502.400 Pony Person
502.450 Stable Foreman
502.500 Jockey Agents
502.600 Authorized Agents

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

502.650	Tack Shop Operators and Other Vendors
502.660	Vendor Helper
502.680	Thoroughbred Grooms
502.690	Harness Grooms
502.700	Hotwalker
502.790	Totalizator Employee
502.795	Business Agents

SUBPART I: CONFLICTS OF INTEREST

Section	
502.800	General Provisions
502.820	Dual Licensing
502.830	Limitations on License
502.840	Husbands and Wives
502.850	Transfer of a Horse

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Emergency rule adopted and codified at 6 Ill. Reg. 9711, effective July 27, 1982, for a maximum of 150 days; adopted and codified at 6 Ill. Reg. 13786, effective October 25, 1982; amended at 7 Ill. Reg. 5225, effective April 1, 1983; amended at 11 Ill. Reg. 20611, effective January 1, 1988; amended at 13 Ill. Reg. 1562, effective January 23, 1989; amended at 13 Ill. Reg. 4931, effective March 22, 1989; amended at 14 Ill. Reg. 17641, effective October 16, 1990; amended at 15 Ill. Reg. 11985, effective August 12, 1991; amended at 16 Ill. Reg. 12774, effective July 31, 1992; amended at 17 Ill. Reg. 19961, effective November 9, 1993; amended at 18 Ill. Reg. 11615, effective July 7, 1994; amended at 19 Ill. Reg. 5034, effective April 1, 1995; amended at 19 Ill. Reg. 17190, effective January 1, 1996; amended at 20 Ill. Reg. 13052, effective October 1, 1996; amended at 22 Ill. Reg. 10656, effective June 1, 1998; amended at 28 Ill. Reg. 11244, effective August 1, 2004; amended at 29 Ill. Reg. 10248, effective August 1, 2005; amended at 32 Ill. Reg. 7391, effective May 1, 2008; amended at 33 Ill. Reg. _____, effective _____.

SUBPART A: PROCEDURE

Section 502.10 Submission of Application

- a) Any person desiring an occupation license shall apply on forms provided by the

ILLINOIS RACING BOARD

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Illinois Racing Board (Board). If additional information is requested for the purpose of determining an applicant's eligibility or qualifications, the Board shall notify the applicant that he or she shall provide ~~thesueh~~ supplemental information.

- b) Applications may be obtained from the license office at any race track regulated by the Board or from the Board's central office in Chicago or at the Board's website (www.state.il.us/agency/irb).
- c) Applications shall be filed in the licensing office, at the race track where the applicant wishes to participate in a race meeting. Applications may also be filed at the Board's central office, but the applicant shall indicate on the application the race track at which the applicant wishes to participate.

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

Section 502.30 License Fees

- a) Applications for annual occupation licenses shall be accompanied by a non-refundable fee, according to the following schedule:
 - 1) \$25 – owner, trainer, owner/trainer owner/trainer/driver, driver, jockey, apprentice jockey, jockey agent, veterinarian, farrier, apprentice farrier, authorized agent, vendor, partnership, starter, ~~and~~ steward totalizator employee and racing official, intertrack employee and business agent;
 - 2) \$15 – assistant trainer, ~~and~~ assistant veterinarian and animal health technician;
 - 3) \$10 – exercise person, pony person, foreman and vendor helper;
 - 4) \$5 – hot walker and groom.
- b) The following individuals shall submit the license application, together with any other information (where applicable, listed in SubpartSubparts B and/or C) required by the Board, including but not limited to fingerprint cards, the required fee for fingerprint cards and certification of licensure, but shall not be assessed a license fee:
 - 1) persons who perform professional services, such as members of the clergy,

ILLINOIS RACING BOARD

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doctors, ~~EMT paramedics and EMT's~~, dentists, social workers, and substance abuse counselors.

- 2) race track employees such as valets, assistant starters, charters, jockey room masseurs, kitchen help and jockey room custodians.

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

SUBPART E: TRAINERS AND ASSISTANT TRAINERS

Section 502.200 Trainers and Assistant Trainers

An applicant for a license as a trainer or an assistant trainer shall:

- a) Be at least 18 years of age and have been licensed as a trainer or assistant trainer by the Board or another racing jurisdiction. Any person applying for a license as a trainer or assistant trainer for the first time in Illinois shall submit to the examinations required of prospective trainers and assistant trainers, as provided in Section 502.210, unless previously licensed in one of these capacities in another racing jurisdiction where he or she was administered and passed a trainer's examination for at least one year.
- b) Additionally, an applicant for a trainer's license shall:
 - 1) have at least one horse to train ~~that which~~ is eligible to race in Illinois;
 - 2) be capable of meeting the financial obligations incurred in the stabling, racing, training, and care of the horse in his or her care; and
 - 3) provide proof of having complied with Section 502.220.
- c) An applicant for an assistant trainer's license shall be employed by a licensed trainer. In order to employ an assistant trainer, a trainer must have at least six horses in his or her stable, but may have no more than one assistant trainer for every 20 horses in training. However, if a trainer has fewer than six horses and wishes to ship one or more to another race track, or if a trainer shows a hardship such as a physical impairment, the ~~Stewards~~ shall allow the trainer to have an assistant trainer.

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

SUBPART F: JOCKEYS AND APPRENTICE JOCKEYS

Section 502.235 Apprentice Jockeys, Criteria for Eligibility

An applicant for an apprentice jockey's license who has never been so licensed shall:

- a) be at least ~~16~~18 years of age or have been licensed as an apprentice jockey in this or another racing jurisdiction prior to January 1, 1988 (the effective date of this Section)~~these rules~~; and
- b) have been licensed for at least one year by the Board or by another racing jurisdiction as an exercise rider or shall have acquired riding experience comparable to that of an exercise person at a training center or farm;
- c) demonstrate the ability to break a horse from a starting gate in company with other horses and under observation of the starter; and
- d) then have ridden competitively in at least two races.

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

SUBPART H: OTHER LICENSEES

Section 502.650 Tack Shop Operators and Other Vendors

An applicant for a license as a tack shop operator or vendor shall, prior to the filing of ~~the~~such application, file with the ~~State Veterinarian~~state veterinarian for his or her approval, a list of the items or types of service that~~which~~ the applicant intends to sell or deliver. If possession of those items or services within the race track enclosure is not prohibited by the Board's rules, the State Veterinarian~~state veterinarian~~ shall approve the list.

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

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Licensing
- 2) Code Citation: 11 Ill. Adm. Code 1302
- 3) Section Number: 1302.90 Proposed Action: Amend
- 4) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking requires licensees to carry on their person, not wear, their photo identification badges issued by the Board.
- 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 in this Part? No
- 11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017

ILLINOIS RACING BOARD

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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: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: January 2009

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACINGPART 1302
LICENSING

Section

1302.10	License to Participate (Repealed)
1302.20	Application for License (Repealed)
1302.30	License Fee (Repealed)
1302.40	Applicant Assent and Agreement (Repealed)
1302.50	License Revocable (Repealed)
1302.60	Power To Deny License (Repealed)
1302.70	Reasons for Denial or Revocation of License (Repealed)
1302.80	Unfit for License (Repealed)
1302.90	Possession of Credentials
1302.100	Unauthorized Use of Credentials
1302.110	Hearing on License Suspension
1302.200	Absence of Trainers
1302.220	Minimum Age (Repealed)
1302.230	Licensed Concessionaire

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Published in Rules and Regulations of Harness Racing, (original date not cited in publication); codified at 5 Ill. Reg. 10919; emergency amendment at 6 Ill. Reg. 9713, effective July 27, 1982 for a maximum of 150 days; amended at 6 Ill. Reg. 13789, effective October 25, 1982; amended at 11 Ill. Reg. 20207, effective December 1, 1987; amended at 33 Ill. Reg. _____, effective _____.

Section 1302.90 Possession of Credentials

a) All licensees shall carry on their person at all times within the stable area of a racetrack their~~Every person granted an occupation license by the Board must keep his or her~~ Board photo identification badge. Every card, in his or her possession and every person so identified is subject to ~~the~~ examination by the Board or its, it agents or employees, and by or officials of the

ILLINOIS RACING BOARD

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race track operator ~~or, and~~ its designated agents or employees, at any time they may deem necessary or proper. The Board may require visible display of a license in a restricted area. A license may only be used by the person to whom it is issued.

- b) ~~While in the stable area of a race track, all occupation licensees shall wear their identification cards prominently displayed on their outer garments.~~

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

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Licensing of Participants
- 2) Code Citation: 11 Ill. Adm. Code 1408
- 3) Section Number: 1408.60 Proposed Action: Amend
- 4) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking requires licensees to carry on their person, not wear, their photo identification badges issued by the Board.
- 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 in this Part? No
- 11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: January 2009

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING
(THOROUGHBRED)

PART 1408
LICENSING OF PARTICIPANTS

Section	
1408.10	Participants Must Be Licensed (Repealed)
1408.20	Application for License (Repealed)
1408.30	Form of Application (Repealed)
1408.40	Revocation of License (Repealed)
1408.50	Who Shall Be Licensed (Repealed)
1408.54	Responsibility of Employer on Discharge of Employee
1408.57	Responsibility of Employee When Discharged (Repealed)
1408.60	Possession of Credentials
1408.70	Persons Barred (Repealed)
1408.80	Denial of License a Ruling (Repealed)
1408.84	Financial Responsibility (Repealed)
1408.87	Worker's Compensation (Repealed)
1408.90	Revocation of License
1408.100	Unauthorized Use of Credentials
1408.110	Authorized Agents (Owners) (Repealed)
1408.120	Authorized Agents (Trainers) (Repealed)
1408.130	Jockey Agents (Repealed)
1408.135	Agent Fees (Repealed)
1408.140	Veterinarians (Repealed)
1408.145	Owning Horses (Repealed)
1408.150	Rules of Employment and Payment of Fines
1408.160	Payment (Repealed)
1408.170	Duration of License (Repealed)
1408.180	New Riders (Repealed)
1408.190	Probationary Permit

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

SOURCE: Published in Rules and Regulations of Horse Racing, (original date not cited in publication); codified at 5 Ill. Reg. 10970; amended at 7 Ill. Reg. 1427, effective January 24, 1983; amended at 11 Ill. Reg. 20209, effective December 1, 1987; amended at 15 Ill. Reg. 5745, effective April 4, 1991; amended at 33 Ill. Reg. _____, effective _____.

Section 1408.60 Possession of Credentials

All licensees shall carry on their person at all times within the stable area of a racetrack
their~~Every person granted an occupation license by the Board must keep his or her~~ Board photo
identification badge. Every card, in his or her possession and every person so identified is subject
to ~~the~~ examination by the Board or, its agents or employees, and by officials~~or official~~ of the race
track operator or,~~and~~ its designated agents or employees, at any time they may deem necessary
or proper. The Board may require visible display of a license in a restricted area. A license may
only be used by the person to whom it is issued.~~While in the stable area of a race track, all~~
~~occupation licensees shall wear their identification cards prominently displayed on their outer~~
~~garments.~~

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Regulations under the Illinois Securities Law of 1953

2) Code Citation: 14 Ill. Adm. Code 130

<u>Section Numbers:</u>	<u>Proposed Action:</u>
130.100	Amended
130.285	Amended
130.293	Amended
130.855	New
130.1107	Repealed

4) Statutory Authority: 815 ILCS 5/1

5) A Complete Description of the Subjects and Issues Involved:

Section 130.100 is being amended to change the address of Springfield office.

Section 130.285 is being amended to incorporate a new reference to an inequitable business practice and a fraudulent business practice.

Section 130.293 is being amended to conform with SEC filing requirements and makes other nonsubstantive changes.

Section 130.855 is adding a new uniform provision concerning the use of senior certifications and professional designations.

Section 130.1107 is being repealed to comply with changes in Special Appearances in the Illinois Administrative Code of Procedures.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Data from the North American Securities Administrators Association indicates a strong need to clarify the qualifications of investment professionals who portend to be 'senior specialists' or specialize in working with older investors. This rule was drafted on a NASAA model rule.

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The policy objective related to adoption of this rulemaking is to ensure uniformity in the State requirements that are consistent with changes in the Illinois Administrative Code of Procedures and to correct the address of the Department.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: In writing only to:
- Tanya Solov, Director
Illinois Securities Department
69 W. Washington St., Suite 1220
Chicago, IL 60602
- 312/793-2525
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: No impact on small municipalities and not for profit corporations. Correcting the address has the potential of a positive affect on all entities doing business with the Department.
- B) Reporting, bookkeeping or other procedures required for compliance: Section 130.293 as amended requires a fifteen day filing requirement after date of first sale to an Illinois resident.
- C) Types of Professional skills necessary for compliance: No specific professional skills are required for compliance with this rule.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 130
REGULATIONS UNDER ILLINOIS SECURITIES LAW OF 1953

SUBPART A: RULES OF GENERAL APPLICATION

Section	
130.100	Business Hours of the Securities Department
130.101	Computation of Time
130.110	Payment of Fees
130.120	Place of Filing
130.130	Date of Filing
130.135	Registration of Securities under Section 5 or 7 of the Act Utilizing the SRD
130.140	Requirements as to Proper Form
130.141	Additional Information
130.142	Additional Exhibits (Repealed)
130.143	Information Unknown or Not Reasonably Available
130.144	Requirements as to Paper, Printing, and Language
130.145	Number of Copies – Signatures
130.190	Provisions for Granting of Variance from Rules

SUBPART B: DEFINITIONS

Section	
130.200	Definitions of Terms Used in the Act and the Rules
130.201	Definition of the Term "Investment Contract", as Used in Section 2.1 of the Act
130.202	Definition of the Term "Fractional Undivided Interest", as Used in Section 2.1 of the Act with Reference to Oil and/or Gas Leases, Rights or Royalties
130.205	Definition of the Term "Issuer" as Used in Section 2.2 of the Act as Applied to Fractional Interests in Oil, Gas and Other Mineral Leases, Rights or Royalties
130.210	Definition of Acts Not Constituting a "Sale" or "Offer" as Used in Section 2.5 or 2.5a of the Act
130.211	Definition of Acts Not Constituting an "Offer" of Securities under Section 5, 6, 7 or 8 of the Act
130.212	Definition of Acts Not Constituting an "Offer" Under Section 2.5a of the Act (Testing the Waters)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 130.215 Definition of "Commission From an Underwriter or Dealer Not in Excess of the Usual and Customary Distributors' or Sellers' Commissions", as Used in Section 2.6 of the Act for Certain Transactions
- 130.216 Definition of "Participates" and "Participation", as Used in Section 2.6 of the Act in Relation to Certain Transactions
- 130.220 Definition of "Regularly Engaged in Securities Sales Activities", as Used in Section 2.9 of the Act
- 130.221 Exclusion of Certain Persons from the Definition of Investment Adviser in Section 2.11 of the Act
- 130.225 Definition of "Investment Fund Shares", as Used in Section 2.15 of the Act in Relation to Certain Issuers
- 130.233 Definition of the Phrase "Promissory Note or Draft, Bill of Exchange or Bankers' Acceptance" as Used in Section 3(L) of the Act
- 130.234 Definition, For Certain Purposes, of the Terms "Employee Security-Purchase Plan", "Employee Profit-Sharing Trust or Plan", "Employee Pension Trust or Plan", as Used in Section 3.N and Section 3.O of the Act (Repealed)
- 130.235 Definition, For Certain Purposes, of the Terms "Employee Profit-Sharing Trust or Plan", "Employee Pension Trust or Plan", as Used in Section 3.O of the Act (Repealed)
- 130.241 Definition of the Term "Institutional Investor" under Sections 4C and 4D of the Act
- 130.242 Definition of the Term "Financial Institution" under Section 4.C of the Act
- 130.244 Definition of "Issuer Required to File Reports Pursuant to the Provisions of Section 13 or Section 15(d) of the Federal 1934 Act" with Respect to Certain Foreign Private Issuers and "Reports Required to be Filed at Regular Intervals Pursuant to the Provisions of Section 13 or Section 15(d)" as Used in Section 4(F)(1) of the Act
- 130.245 Definition of the Terms "Balance Sheet" and "Income Statement", as Used in Section 4.F of the Act
- 130.246 Definition of the Terms "Residents of this State", "Aggregate Sales Price" and "Sales Made in Reliance Upon the Exemption" Under Section 4.G of the Act and "General Advertising or General Solicitation" Under Sections 4.G, 4.H, 4.M and 4.R of the Act
- 130.247 Definition of the Term "Public" as Used in Section 4(G)(4) of the Act
- 130.248 Definition of the Terms "Offers for Sale" and "Solicitations of Offers to Buy", as Used in Section 4.L of the Act
- 130.250 Definition, For Certain Purposes, of the Terms "Commissions, Remuneration or Discounts", as Used in Section 4 and Section 5 of the Act
- 130.251 Definition of the Term "Maximum Aggregate Price", as Used in Section 5 of the

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NOTICE OF PROPOSED AMENDMENTS

- Act
- 130.270 Definition of Certain Persons Not Considered to Be Dealers Under Section 2.7 of the Act
- 130.280 Definition of the Term "Branch Office" of a Registered Dealer, as Used in Section 8 of the Act
- 130.281 Definition of the Term "Branch Office" of a Registered Investment Adviser, as Used in Section 8 of the Act
- 130.282 Definition, For Certain Purposes, of the Term "Officers", as Used in Section 2.9 and Section 8.B.(6) of the Act
- 130.285 Definition, ~~for~~ For Certain Purposes, of the Terms "Inequitable", "Tend to Work a Fraud or Deceit", "Inequitable Practice in the Sale of Securities", and "Fraudulent Business Practices", as Used in Section 8 and Section 11 of the Act
- 130.291 Definition of the Terms "Fraudulent" and "Work or Tend to Work a Fraud or Deceit" as Used in Sections 11.E and 12.F of the Act for Purposes of the Payment of Completion Costs in Connection with the Offer or Sale of Securities involving an Oil, Gas or Other Mineral Lease, Right or Royalty

SUBPART C: FEDERAL COVERED SECURITIES AND TRANSACTIONS

- Section
- 130.293 Issuers of Covered Securities Required to File Notifications and Pay Fees and the Refusal to File Notifications or Pay Fees
- 130.370 Automated Quotation System Deemed to Have Substantially Equivalent Standards for Designation as Required By One or More Exchanges Set Forth in Section 3(G) of the Act (Repealed)

SUBPART D: EXEMPT TRANSACTIONS

- Section
- 130.420 Uniform Limited Offering Exemption Pursuant to Section 4.D of the Act
- 130.436 Procedures for Applying for Trading Authorization Pursuant to Section 4(F)(2) of the Act
- 130.440 Procedures for Filing Reports of Sale under Section 4.G of the Act
- 130.441 Calculation of Number of Persons Under Section 4.G or 4.M of the Act
- 130.442 Report of Sale of Securities pursuant to Section 4.G of the Act
- 130.490 Procedures for Filing Reports of Sale under Section 4.P of the Act
- 130.491 Report of Sale of Securities Pursuant to Section 4(P) of the Act
- 130.492 Exemption from Registration for Certain Canadian Broker-Dealers and Agents and for Transactions Effected by Certain Canadian Broker-Dealers

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NOTICE OF PROPOSED AMENDMENTS

SUBPART E: REGISTRATION OF SECURITIES

Section	
130.501	Title of Securities
130.502	Financial Statement Requirements
130.503	Disclaimer of Control
130.505	Formal Requirements as to Consents
130.506	Consents Required in Special Cases
130.507	Application to Dispense with Consent
130.508	Consent to Use of Material Incorporated by Reference
130.510	Procedures for Registration of Securities by Coordination under Section 5.A of the Act
130.520	Procedures for Registration of Securities by Qualification under Section 5.B of the Act
130.525	Procedures for Registration of Securities by Qualification under Section 5.B(7) of the Act, Small Company Offering Registration ("SCOR") on Form U-7
130.530	Renewal of Registration of Securities Under Section 5.E of the Act
130.531	Computation of Fees
130.532	Registration of Additional Securities Pursuant to Section 5(C)(2) of the Act
130.533	Formal Requirements for Amendments Under Section 5 of the Act
130.534	Powers to Amend or Withdraw Registration Statement
130.535	Signatures of Amendments
130.536	Delaying Amendments
130.538	Withdrawal of Registration Statement, Amendment or Exhibit Filed Under the Federal 1933 Act
130.540	Procedure with Respect to Abandoning Registration Statements, Applications for Trading Authorizations and Post-Effective Amendments
130.550	Additional Fees Under Section 5 of the Act
130.570	Legibility of Prospectuses
130.571	Presentation of Information in Prospectuses
130.572	Summaries or Outlines of Documents
130.573	Preparation of Application for Registration
130.574	Incorporation of Certain Information by Reference
130.575	Form of and Limitation Upon Incorporation by Reference
130.576	Statement Required in Prospectuses
130.577	Prospectuses Supplementing Preliminary Material Supplied Previously
130.578	Application of Amendments to this Part Governing Contents of Prospectuses
130.581	Statement as to Stabilizing Required in Prospectuses Filed Under Section 5.B of

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NOTICE OF PROPOSED AMENDMENTS

- the Act
- 130.582 Contents of Prospectus When Two or More Registrations Are in Effect Under Section 5.B of the Act
- 130.590 Identifying Statements
- 130.591 Requirements as to Appraisals
- 130.592 Omission of Substantially Identical Documents
- 130.593 Incorporation of Exhibits by Reference

SUBPART F: FACE AMOUNT CERTIFICATE CONTRACTS

- Section
- 130.600 Preamble
- 130.610 Procedures for Registration of Face Amount Certificate Contracts by Coordination under Section 6.A of the Act
- 130.630 Renewal of Registration of Face Amount Certificate Contracts Under Section 6.F of the Act
- 130.650 Additional Fees Under Section 6 of the Act

SUBPART G: INVESTMENT FUND SHARES

- Section
- 130.700 Preamble
- 130.701 Title of Investment Fund Shares Registered Under Section 5 or 7 of the Act
- 130.710 Procedures for Registration of Investment Fund Shares by Coordination under Section 7.A of the Act
- 130.715 Amendatory Statement for the Registration of Additional Class or Classes or the Reporting of a Change in Organization or Operations Pursuant to Section 7(D) of the Act
- 130.730 Renewal of Registration of Investment Fund Shares Under Section 7(G) of the Act
- 130.750 Additional Fees Under Section 7 of the Act
- 130.771 Acts Which "Work or Tend to Work a Fraud or Deceit", in Connection with Offers, Sales or Dispositions of Investment Fund Shares

SUBPART H: REGISTRATION OF DEALERS, SALESPERSONS AND INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

- Section
- 130.805 Exemptions From Registration as an Investment Adviser Under Section 8.A of the

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NOTICE OF PROPOSED AMENDMENTS

- Act
- 130.806 Acts Not Requiring a Notification Filing of a Federal Covered Investment Adviser or Registration as an Investment Adviser or Investment Adviser Representative Under Section 8 of the Act
- 130.810 Procedures for Registration as a Dealer Under Section 8.B of the Act
- 130.811 Procedures for Perfecting an Investment Adviser Exemption under Section 2.11(6) of the Act (Repealed)
- 130.820 Procedure for Renewal and Withdrawal from Registration as a Dealer
- 130.821 Reporting of Dealer Branch Office Locations and Required Fees
- 130.822 Examinations Deemed Satisfactory for Purposes of Determining Sufficient Knowledge of Each Principal Under Section 8.B(9)(a) of the Act Prior to Registration as a Dealer
- 130.823 Procedure for Requesting Waiver of Dealer, Salesperson, Investment Adviser, Investment Adviser Representative, or Principal Examination Requirements
- 130.824 Financial Statements to be Filed by a Registered Dealer
- 130.825 Records Required of Dealers and Customer Fees
- 130.826 Registered Dealer Net Capital Requirements
- 130.827 Confirmations
- 130.828 Notice of Materially Adverse Financial Condition Required to Be Filed With the Securities Department By a Registered Dealer
- 130.829 Investor Protection Requirement of a Dealer Registered Under Section 8 of the Act
- 130.832 Examinations Deemed Satisfactory for Purposes of Determining Sufficient Knowledge Under Section 8.C(7) of the Act for Registration as a Salesperson
- 130.836 Hardship Exemption
- 130.837 Transition to Electronic Filing
- 130.838 Procedures for Federal Covered Investment Adviser Notification Filing and Fees Under Section 8.C-5 of the Act
- 130.839 Procedures for Registration as an Investment Adviser Representative Under Section 8.D-5 of the Act
- 130.840 Procedures for Registration as an Investment Adviser Under Section 8.D of the Act
- 130.841 Reporting of Investment Adviser Branch Office Location(s) and Required Fees
- 130.842 Examinations and Education Programs Deemed Satisfactory for Purposes of Determining Sufficient Knowledge for Each Principal Under Section 8.D.(9) of the Act Prior to Registration as an Investment Adviser
- 130.843 Examination and Education Program Requirements for Registration the Act
- 130.844 Statement of Financial Condition to Be Filed By a Registered Investment Adviser Which Retains Custody of Client's Cash or Securities or Accepts Pre-Payment of

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	Fees in Excess of \$500.00 Per Client and Six (6) or More Months in Advance and Interim Financial Statements
130.845	Records Required of Investment Advisers
130.846	Written Disclosure Statements of a Registered Investment Adviser
130.847	Financial and Disciplinary Information That Investment Advisers Must Disclose to Clients
130.850	Account Transactions
130.851	Commission, Profit or Other Compensation
130.852	Compensation
130.853	Account Transactions
130.854	Use of the Term "Investment Counsel"
130.855	Use of Senior Certifications and Professional Designations
130.860	Additional Fees Under Section 8 of the Act
130.872	Procedure with Respect to Abandoned Dealer Applications
130.873	Procedure with Respect to Abandoned Investment Adviser Applications

SUBPART J: SERVICE OF PROCESS

Section	
130.1001	Service of Process upon the Secretary of State

SUBPART K: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section	
130.1100	Preamble
130.1101	Qualifications and Duties of the Hearing Officer
130.1102	Notice of Hearing
130.1103	Institution of a Contested Case by the Securities Department
130.1104	Requirement to File an Answer
130.1105	Amendment or Withdrawal of the Notice of Hearing
130.1106	Representation
130.1107	Special Appearance
130.1108	Substitution of Parties
130.1109	Failure to Appear
130.1110	Motions
130.1111	Requirements Relating to Continuances
130.1112	Rules of Evidence
130.1113	Form of Papers
130.1114	Bill of Particulars (Repealed)

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130.1115	Discovery
130.1116	Examination of Witnesses
130.1117	Subpoenas
130.1118	Pre-Hearing Conferences
130.1119	Record of a Pre-Hearing Conference
130.1120	Hearings
130.1121	Record of Proceedings
130.1122	Record of Hearing
130.1123	Orders
130.1124	Burden of Proof
130.1125	Stipulations
130.1126	Open Hearings
130.1127	Corrections to the Transcript
130.1128	Imposition of Fines
130.1129	Application for Hearing to Present Newly Discovered Evidence
130.1130	Failure to Comply With Order or Rules
130.1131	Application to Vacate an Order Issued Due to Default
130.1132	Disqualification of a Hearing Officer

SUBPART O: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section	
130.1520	Request for Non-Binding Statements

SUBPART P: SAVINGS PROVISIONS

Section	
130.1661	Investors Syndicate of America, Inc.
130.1662	State Bond and Mortgage Company

SUBPART Q: PUBLIC INFORMATION

Section	
130.1701	Inspection of Applications
130.1702	Inspection of Dealer, Salesperson and Investment Adviser Records
130.1703	Non-Public Distribution of Information

130.APPENDIX A	Uniform Consent to Service of Process
130.APPENDIX B	Uniform Application to Register Securities

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130.APPENDIX C Uniform Application for Broker-Dealer Registration

130.APPENDIX D Subordinated Loan Agreement for Equity Capital

AUTHORITY: Implementing and authorized by the Illinois Securities Law of 1953 [815 ILCS 5].

SOURCE: Filed February 23, 1977, effective March 5, 1977; amended at 5 Ill. Reg. 9139, effective August 27, 1981; amended at 6 Ill. Reg. 6455, effective May 19, 1982; codified at 6 Ill. Reg. 12674; emergency amendment at 7 Ill. Reg. 17427, effective December 31, 1983, for a maximum of 150 days; emergency expired May 31, 1984; emergency amendment at 8 Ill. Reg. 1476, effective January 18, 1984, for a maximum of 150 days; emergency expired June 17, 1984; emergency repealer at 8 Ill. Reg. 3803, effective March 14, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13419, effective July 12, 1984; amended at 8 Ill. Reg. 13840, effective July 19, 1984; emergency amendment at 8 Ill. Reg. 13889, effective July 20, 1984, for a maximum of 150 days; emergency expired December 17, 1984; amended at 9 Ill. Reg. 208, effective December 20, 1984; emergency amendment at 10 Ill. Reg. 393, effective January 1, 1986, for a maximum of 150 days; emergency expired May 30, 1986; amended at 10 Ill. Reg. 10753, effective June 3, 1986; recodified at 10 Ill. Reg. 19554; emergency amendment at 13 Ill. Reg. 11017, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 14 Ill. Reg. 884, effective December 30, 1989; amended at 14 Ill. Reg. 5188, effective March 26, 1990; emergency amendment at 15 Ill. Reg. 14303, effective November 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 6000, effective March 27, 1992; amended at 20 Ill. Reg. 14185, effective October 21, 1996; amended at 21 Ill. Reg. 7523, effective May 23, 1997; amended at 21 Ill. Reg. 7770, effective May 23, 1997; amended at 21 Ill. Reg. 8415, effective June 20, 1997; emergency amendment at 21 Ill. Reg. 9828, effective July 8, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15892, effective December 1, 1997; amended at 22 Ill. Reg. 1933, effective January 1, 1998; emergency amendment at 24 Ill. Reg. 341, effective December 31, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 7401, effective May 1, 2000; emergency amendment at 25 Ill. Reg. 973, effective January 1, 2001, for a maximum of 150 days; emergency expired May 30, 2001; amended at 25 Ill. Reg. 8817, effective July 6, 2001; amended at 26 Ill. Reg. 14843, effective September 30, 2002; amended at 27 Ill. Reg. 9490, effective June 9, 2003; emergency amendment at 29 Ill. Reg. 15087, effective September 23, 2005, for a maximum of 150 days; emergency expired February 19, 2006; emergency amendment at 30 Ill. Reg. 13009, effective July 11, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18211, effective October 31, 2006; amended at 33 Ill. Reg. _____, effective _____.

SUBPART A: RULES OF GENERAL APPLICATION

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Section 130.100 Business Hours of the Securities Department

- a) The principal office of the Securities Department at [Jefferson Terrace, Suite 300A, 300 W. Jefferson Street, Springfield IL 62702](#)~~Lincoln Tower, Suite 200, 520 South Second Street, Springfield, Illinois 62701~~, is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. ~~Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Springfield.~~
- b) An office of the Securities Department at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602 is open each day, except Saturdays, Sundays and holidays, from 8:30 a.m. to 5:00 p.m. ~~Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Chicago.~~

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

SUBPART B: DEFINITIONS

Section 130.285 Definition, ~~for~~ For Certain Purposes, of the Terms "Inequitable", "Tend to Work a Fraud or Deceit", "Inequitable Practice in the Sale of Securities", and "Fraudulent Business Practices", as Used in Section 8 and Section 11 of the Act

- a) The failure of any dealer or salesperson to comply with Sections 130.810, 130.821, 130.824, 130.825, 130.827, 130.850, ~~and~~ 130.851 ~~and~~ 130.855, of this Part shall constitute an inequitable practice in the sale of securities and a fraudulent business practice.
- b) The failure of any investment adviser ~~or investment adviser representative~~ to comply with Sections 130.840, 130.841, 130.844, 130.845, 130.852, 130.853, ~~and~~ 130.854 ~~and~~ 130.855, of this Part shall constitute an inequitable practice in the sale of securities and a fraudulent business practice.

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

Section 130.293 Issuers of Covered Securities Required to File Notifications and Pay Fees and the Refusal to File Notifications or Pay Fees

- a) Except as otherwise provided ~~in this Section~~ ~~herein~~, each issuer of covered securities shall annually file with the Secretary of State a notification and fee as

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NOTICE OF PROPOSED AMENDMENTS

follows:

- 1) Issuers of securities being offered pursuant to Regulation D, ~~section~~Section 506 of the Federal 1933 Act, shall file, no later than 15 days after the first sale of the federally covered securities to residents of this State, Form D together with a \$100 fee.
 - 2) Issuers of shelf offerings shall file page one of Form U-1₂ together with a fee of $\frac{1}{20}$ th of 1% of the maximum aggregate offering price, but in no event shall thesueh fee be less than \$500 nor more than \$6,000.
 - 3) A series issuer of securities shall file page one of Form U-1₂ together with a fee of $\frac{1}{20}$ th of 1% of the maximum aggregate offering price, but in no event shall thesueh fee be less than \$500 nor more than \$3,000.
 - 4) Issuers of face amount certificate contracts shall file page one of Form U-1₂ together with a fee of \$1,000.
 - 5) Issuers of open-end investment fund shares shall file page one of Form U-1 or Form 7G₂ together with a fee of \$1,000 plus \$100 for each series, class or portfolio.
 - 6) All other issuers of covered securities that are required to file a notification and pay fees to the Secretary of State shall file page one of Form U-1₂ together with a fee of $\frac{1}{20}$ th of 1% of the maximum aggregate offering price, but in no event shall thesueh fee be less than \$500 nor more than \$2,500.
- b) In lieu of page one of Form U-1 or Form 7G, the Secretary of State may permit the use of any other uniform form thatwhich he or she has adopted by order or this Section.
- c) In the event the notification or the full amount of fees required by this Section is not filed with or paid to the Secretary of State, the Secretary of State shall notify the issuer of thesueh deficiency in writing, or by facsimile or electronic transmission (provided that the Securities Department can demonstrate in the normal course of its business that the notice was delivered or transmitted to and received by the issuer or his, her or its designee). In the event the issuer fails to remedy the deficiency within ten business days after receiving notice of thesueh

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deficiency from the Secretary of State, the Secretary of State may deem that failure to besueh as a refusal and may, until October 11, 1999, require the issuer to register its securities pursuant to subsection A or B of Section 5, ~~6~~, or 7 of the Act, as the case may be.

- d) The provisions of this Section shall not apply to any security listed or authorized for listing on the New York Stock Exchange or the American Stock Exchange, or that is listed on the National Market System of the Nasdaq Stock Market, or any successor to ~~thesesueh~~ entities, or listed or authorized for listing on a national securities exchange, or tier or segment ~~of an exchangethereof~~, that has listing standards that the federal SEC by rule, on its own initiative or on the basis of petition determines are substantially similar to the listing standards applicable to securities described in this Section, or is a security of the same issuer that is equal in seniority or that is a senior security.

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

SUBPART H: REGISTRATION OF DEALERS, SALESPERSONS AND INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

Section 130.855 Use of Senior Certifications and Professional Designations

- a) It shall be a fraudulent business practice under Section 8 of the Act for any person to use, in such a way as to mislead any person, a senior specific certification or designation that, in a manner prohibited by subsection (b), indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees in connection with the offer, sale or purchase of securities, or the provision of advice as to the value of or the advisability of investing in, purchasing or selling securities, directly or indirectly, through publications or writings, or by issuing or promulgating analyses or reports relating to securities.
- b) The prohibited use of such certifications or professional designations includes, but is not limited to, the following:
- 1) use of a certification or professional designation by a person who has not actually earned, or is otherwise ineligible to use, such certification or designation;

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- 2) use of a nonexistent or self-conferred certification or professional designation;
 - 3) use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training or experience that the person using the certification or professional designation does not have; and
 - 4) use of a certification or professional designation that was obtained from a designating or certifying organization that:
 - A) is primarily engaged in the business of instruction in sales and/or marketing;
 - B) does not have reasonable standards or procedures for assuring the competency of its designees or certificants;
 - C) does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or
 - D) does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.
- c) There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of subsection (b)(4) when the organization has been accredited by:
- 1) The American National Standards Institute; or
 - 2) The National Commission for Certifying Agencies; or
 - 3) An organization that is on the United States Department of Education's list titled "Accrediting Agencies Recognized for Title IV Purposes" and the designation or credential issued by that organization does not primarily apply to sales and/or marketing.

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- d) In determining whether a combination of words, or an acronym standing for a combination of words, constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:
- 1) use of one or more words such as "senior", "retirement", "elder" or like words, combined with one or more words such as "certified", "registered", "chartered", "adviser", "specialist", "consultant", "planner" or like words, in the name of the certification or professional designation; and
 - 2) the manner in which those words are combined.
- e) For purposes of this Section, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title indicates seniority or standing within the organization, or specifies an individual's area of specialization within the organization. For purposes of this subsection (e), the term "financial services regulatory agency" includes, but is not limited to, an agency that regulates broker-dealers, investment advisers or investment companies, as defined by the Investment Company Act of 1940 (15 USC 80a-51 through 80a-58).
- f) Nothing in this Section shall limit the Secretary's authority to enforce existing provisions of the Act.

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

SUBPART K: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section 130.1107 Special Appearance (Repealed)

- a) ~~Prior to filing any other pleading or motion, a special appearance may be made either in person or by attorney for the limited purpose of objecting to the jurisdiction of the Securities Department over the person of the respondent. Every appearance not expressly designated a special appearance shall be deemed to be a general appearance. If the reasons for objecting to jurisdiction are not apparent from the papers on file in the proceeding, the special appearance shall be supported by affidavit setting forth the reasons. In ruling upon any objection at~~

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~~any hearing, the Hearing Officer may consider all matters apparent from the papers on file, affidavits submitted by any party, and any other evidence adduced upon disputed issues of fact. No determination of any issue of fact in connection with the objection is a determination of the merits of the case or any aspect thereof. A ruling adverse to the objector does not preclude him or her from making any motion or defense which he or she might otherwise have made. If the Hearing Officer sustains the objection, any appropriate order shall be entered of record after review by a designated representative of the Secretary. Error in ruling against the objection is not waived by the objector's taking part in further proceedings in the matter. If a special appearance is denied by the Hearing Officer, the respondent's time limits to file an answer or other responsive pleading in accordance with Section 130.1104 of this Part begin from the date of the denial of the special appearance.~~

- b) ~~Any objection to the subject matter jurisdiction, including the objection that the respondent did not offer and/or sell a security or a business opportunity, are not the proper subject of this Section and shall be stricken by the Hearing Officer if made a part of the special appearance.~~

(Source: Repealed at 33 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Regulations under the Business Opportunity Sales Law of 1995
- 2) Code Citation: 14 Ill. Adm. Code 135
- 3) Section Number: 135.2100 Proposed Action:
Amended
- 4) Statutory Authority: 815 ILCS 602/5-1
- 5) A Complete Description of the Subjects and Issues Involved: Section 135.2100 is being amended to change the address of Springfield office.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The policy objective related to adoption of this amendment is to correct the address for the Department.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: In writing only to:

Tanya Solov, Director
Illinois Securities Department
69 W. Washington St., Suite 1220
Chicago, IL 60602

312/793-2525

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: No impact

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- B) Reporting, bookkeeping or other procedures required for compliance: No impact
- C) Types of Professional skills necessary for compliance: No impact
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE

PART 135
REGULATIONS UNDER THE BUSINESS OPPORTUNITY SALES LAW OF 1995

SUBPART A: DEFINITIONS

Section
135.50 Definitions of Terms as Used in the Act and the Rules

SUBPART B: EXEMPTIONS

Section
135.100 Exemption by Order

SUBPART C: REGISTRATION OF BUSINESS OPPORTUNITIES

Section
135.300 Complete Filing
135.301 Procedures for Withdrawal of Pending Application or Termination of Registration
of a Business Opportunity
135.302 Procedure with Respect to Abandoning Incomplete Applications for Registration
of a Business Opportunity
135.303 Procedures for Renewal of Registration of a Business Opportunity Under Section
5-30(e) of the Act
135.350 Disclosure Document
135.351 Additional Required Disclosure from Seller-Guarantors
135.352 Required Amendments to Disclosure Filing
135.353 Material Change
135.356 Additional Fees
135.500 Minimum Net Worth or Surety Bond Requirement
135.501 Report of Sale Requirements

SUBPART D: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section
135.700 Hearings

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SUBPART E: SERVICE OF PROCESS

Section

- 135.800 Service of Process upon the Secretary of State
- 135.801 Scope of the Law (Repealed)

SUBPART F: VIOLATIONS

Section

- 135.950 Fraudulent Practices

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section

- 135.1300 Request for Non-Binding Statements

SUBPART H: PUBLIC INFORMATION

Section

- 135.1400 Inspection of Business Opportunity Records
- 135.1401 Non-Public Distribution of Information

SUBPART I: RULES OF GENERAL APPLICATION

Section

- 135.2100 Business Hours of the Securities Department
- 135.2101 Computation of Time
- 135.2110 Payment of Fees
- 135.2120 Place of Filing
- 135.2130 Date of Filing
- 135.2140 Requirements as to Proper Form
- 135.2141 Additional Information
- 135.2143 Information Unknown or Not Reasonably Available
- 135.2144 Requirements as to Paper, Printing and Language
- 135.2145 Number of Copies – Signatures
- 135.2190 Provisions For Granting of Variance from Rules

AUTHORITY: Implementing and authorized by the Business Opportunity Sales Law of 1995 [815 ILCS 602].

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NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted by emergency rulemaking at 20 Ill. Reg. 584, effective January 1, 1996, for a maximum of 150 days; adopted at 20 Ill. Reg. 7963, effective May 30, 1996; amended at 22 Ill. Reg. 9571, effective May 20, 1998; amended at 26 Ill. Reg. 14862, effective September 30, 2002; amended at 33 Ill. Reg. _____, effective _____.

SUBPART I: RULES OF GENERAL APPLICATION

Section 135.2100 Business Hours of the Securities Department

- a) The principal office of the Securities Department at [Jefferson Terrace, Suite 300A, 300 W. Jefferson Street, Springfield IL 62702](#)~~Lincoln Tower, 520 South Second Street, Suite 200, Springfield, Illinois 62701~~, is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Springfield.
- b) An office of the Securities Department at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602 is open each day, except Saturdays, Sundays and holidays, from 8:30 a.m. to 5:00 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Chicago.

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

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Regulations under the Illinois Business Brokers Act of 1995
- 2) Code Citation: 14 Ill. Adm. Code 140
- 3) Section Number: 140.2100 Proposed Action: Amended
- 4) Statutory Authority: 815 ILCS 307/10-1
- 5) A Complete Description of the Subjects and Issues Involved: 140.2100 Amended to change address of the Springfield office.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The policy objective related to adoption of this amendment is to correct the address for the Department.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: In writing only to:

Tanya Solov, Director
Illinois Securities Department
69 W. Washington St., Suite 1220
Chicago, IL 60602

312/793-2525

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: No impact

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- B) Reporting, bookkeeping or other procedures required for compliance: No impact
- C) Types of Professional skills necessary for compliance: No impact
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE

PART 140
REGULATIONS UNDER THE ILLINOIS BUSINESS BROKERS ACT OF 1995

SUBPART A: DEFINITIONS

Section	
140.50	Scope of the Law (Repealed)
140.51	Definitions of Terms Used in the Act and the Rules

SUBPART B: REGISTRATION OF BUSINESS BROKERS

Section	
140.100	Procedures for Registration as a Business Broker Under Section 10-10 of the Act
140.120	Procedures for Withdrawal of Pending Application or Termination of Registration as a Business Broker
140.130	Procedure with Respect to Abandoning Incomplete Applications for Registration as a Business Broker
140.200	Procedures for Renewal of Registration as a Business Broker Under Section 10-20 of the Act
140.300	When Disclosure Statement Must Be Provided
140.301	Purpose of Disclosure; Substantial Compliance
140.302	Contents of Disclosure Statement
140.303	Providing the Contract With the Disclosure Statement
140.304	Providing the Contract to Client (Repealed)

SUBPART C: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section	
140.400	Hearings

SUBPART D: RECORDS

Section	
140.750	Records Required of Business Brokers

SUBPART E: EXEMPTIONS

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

Section	
140.800	Previous and Ongoing Agreements or Contracts and Transactions Not Affected (Repealed)
140.801	Burden of Proof
140.802	Exemption for Franchises (Repealed)
140.803	Exemptions from Waiting Period and Disclosure Requirements Pursuant to Section 10-30 of the Act
140.804	Exemption for Attorneys (Repealed)
140.805	Exemption for Certified Public Accountants (Repealed)
140.806	Other Persons Exempt from the Act and This Part (Repealed)
140.807	Transactions Exempt from the Act and This Part (Repealed)
140.808	Exemption for Real Estate Brokers and Real Estate Salespersons – Services Incidental to a Real Estate Brokerage Agreement (Repealed)
140.810	Exemption for Loan Broker Agreements or Contracts from the Business Brokers Act of 1995

SUBPART F: SERVICE OF PROCESS

Section	
140.1000	Service of Process upon the Secretary of State

SUBPART G: PROCEDURES FOR BUSINESS BROKER LIENS

Section	
140.1150	Procedures for Filing a Notice of Lien or Amendment to a Notice of Lien Under Section 10-115 of the Act
140.1152	Procedures to Terminate a Notice of Lien Prior to the Two Year Expiration

SUBPART H: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section	
140.1200	Request for Non-Binding Statements

SUBPART I: PUBLIC INFORMATION

Section	
140.1400	Inspection of Business Broker Records
140.1401	Non-Public Distribution of Information

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NOTICE OF PROPOSED AMENDMENT

SUBPART J: RULES OF GENERAL APPLICATION

Section

140.2100	Business Hours of the Securities Department
140.2101	Computation of Time
140.2110	Payment of Fees
140.2120	Place of Filing
140.2130	Date of Filing
140.2140	Requirements as to Proper Form
140.2141	Additional Information
140.2142	Additional Exhibits
140.2143	Information Unknown or Not Reasonably Available
140.2144	Requirements as to Paper, Printing and Language
140.2145	Number of Copies – Signatures
140.2190	Provisions for Granting of Variance from Rules

AUTHORITY: Implementing and authorized by the Illinois Business Brokers Act of 1995 [815 ILCS 307].

SOURCE: Adopted by emergency rulemaking at 20 Ill. Reg. 603, effective January 1, 1996, for a maximum of 150 days; adopted at 20 Ill. Reg. 7984, effective May 30, 1996; amended at 23 Ill. Reg. 3059, effective March 1, 1999; amended at 25 Ill. Reg. 1779, effective January 10, 2001; amended at 26 Ill. Reg. 14867, effective September 30, 2002; amended at 33 Ill. Reg. _____, effective _____.

SUBPART J: RULES OF GENERAL APPLICATION

Section 140.2100 Business Hours of the Securities Department

- a) The principal office of the Securities Department at [Jefferson Terrace, Suite 300A, 300 W. Jefferson Street, Springfield IL 62702](#)~~Lincoln Tower, 520 South Second Street, Suite 200, Springfield, Illinois 62701~~, is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Springfield.
- b) An office of the Securities Department at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602 is open each day, except Saturdays, Sundays and holidays, from 8:30 a.m. to 5:00 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Chicago.

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NOTICE OF PROPOSED AMENDMENT

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

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Regulations under the Illinois Loan Brokers Act of 1995
- 2) Code Citation: 14 Ill. Adm. Code 145
- 3) Section Number: 145.2100 Proposed Action: Amended
- 4) Statutory Authority: 815 ILCS 175/15-1
- 5) A Complete Description of the Subjects and Issues Involved: Section 145.2100 is being amended to change the address of the Springfield office.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The policy objective related to adoption of this amendment is to correct the address for the Department.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: In writing only to:

Tanya Solov, Director
Illinois Securities Department
69 W. Washington St., Suite 1220
Chicago, IL 60602

312/793-2525

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: No impact
 - B) Reporting, bookkeeping or other procedures required for compliance: No impact
 - C) Types of Professional skills necessary for compliance: No impact
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE

PART 145
REGULATIONS UNDER THE ILLINOIS LOAN BROKERS ACT OF 1995

SUBPART A: DEFINITIONS

- Section
145.50 Scope of the Law
145.51 Definitions of Terms as Used in the Act and the Rules

SUBPART B: REGISTRATION OF LOAN BROKERS

- Section
145.150 Procedures for Registration as a Loan Broker Under Section 15-15 of the Act
145.151 Procedures for Withdrawal of Pending Application or Termination of Registration as a Loan Broker
145.152 Procedure with Respect to Abandoning Incomplete Applications for Registration as a Loan Broker
145.200 Procedures for Renewal of Registration as a Loan Broker Under Section 15-20 of the Act
145.300 When Disclosure Statement Must be Provided (Repealed)
145.301 Purpose of Disclosure; Substantial Compliance
145.302 Contents of Disclosure Document (Repealed)
145.303 Providing the Contract with the Disclosure Statement
145.304 Providing the Contract to Borrower

SUBPART C: PROCEDURES FOR ADMINISTRATIVE HEARINGS

- Section
145.400 Hearings

SUBPART D: RECORDS

- Section
145.750 Records Required of Loan Brokers

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SUBPART E: EXEMPTIONS

- Section
145.800 Previous and Ongoing Agreements or Contracts and Transactions Not Affected
145.802 Exemption for Franchises
145.803 Exemptions from Waiting Period and Disclosure Requirements Pursuant to
Section 15-30 of the Act (Repealed)
145.805 Exemption for the Designation of Certified Turnaround Professional (CTP)
145.806 Exemption for Business Broker Agreements or Contracts from the Loan Brokers
Act of 1995

SUBPART F: SERVICE OF PROCESS

- Section
145.1000 Service of Process upon the Secretary of State

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

- Section
145.1200 Request for Non-Binding Statements

SUBPART H: PUBLIC INFORMATION

- Section
145.1400 Inspection of Loan Broker Records
145.1401 Non-Public Distribution of Information

SUBPART I: RULES OF GENERAL APPLICATION

- Section
145.2100 Business Hours of the Securities Department
145.2101 Computation of Time
145.2110 Payment of Fees
145.2120 Place of Filing
145.2130 Date of Filing
145.2140 Requirements as to Proper Form
145.2141 Additional Information
145.2143 Information Unknown or Not Reasonably Available

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 145.2144 Requirements as to Paper, Printing and Language
145.2145 Number of Copies – Signatures
145.2190 Provisions for Granting of Variance from Rules

AUTHORITY: Implementing and authorized by the Illinois Loan Brokers Act of 1995 [815 ILCS 175].

SOURCE: Emergency rule adopted at 20 Ill. Reg. 629, effective January 1, 1996, for a maximum of 150 days; adopted at 20 Ill. Reg. 8012, effective May 30, 1996; amended at 22 Ill. Reg. 7233, effective April 15, 1998; amended at 26 Ill. Reg. 14873, effective September 30, 2002; amended at 33 Ill. Reg. _____, effective _____.

SUBPART I: RULES OF GENERAL APPLICATION

Section 145.2100 Business Hours of the Securities Department

- a) The principal office of the Securities Department at [Jefferson Terrace, Suite 300A, 300 W. Jefferson Street, Springfield IL 62702](#)~~Lincoln Tower, 520 South Second Street, Suite 200, Springfield, Illinois 62701~~, is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Springfield.
- b) An office of the Securities Department at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602 is open each day, except Saturdays, Sundays and holidays, from 8:30 a.m. to 5:00 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Chicago.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Physician Assistant Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1350
- 3)

<u>Section Numbers</u> :	Adopted Action:
1350.20	Amendment
1350.25	Amendment
1350.30	Amendment
1350.40	Amendment
1350.50	Repealed
1350.55	Amendment
1350.80	Amendment
1350.100	Amendment
1350.115	Amendment
1350.116	Amendment
1350.117	Amendment
1350.120	Amendment
- 4) Statutory Authority: Physician Assistant Practice Act of 1987 [225 ILCS 95]
- 5) Effective Date of Amendments: January 8, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: August 29, 2008; 32 Ill. Reg. 13971
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Public Act 95-703, effective December 31, 2007, includes the reauthorization of the Physician Assistant Practice Act of 1987. This adopted rulemaking brings this Part into conformance with the statutory changes. Of particular note is the repeal of Section 1350.50 relating to the elimination of the temporary certificate and the provisions in Sections 1350.80 and 1350.100 of alternate supervisory control due to changes to the Act. This rulemaking also makes 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.
- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Department of Financial and 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 Amendments begins on the next page:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF [FINANCIAL AND](#) PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1350

PHYSICIAN ASSISTANT PRACTICE ACT OF 1987

Section

1350.10	Statutory Authority (Repealed)
1350.20	Definitions
1350.25	Fees
1350.30	Approved Programs
1350.40	Application for Licensure
1350.50	Temporary Certificate (Repealed)
1350.55	Prescriptive Authority
1350.60	Identification
1350.70	Permitted Tasks (Repealed)
1350.80	Supervision of Performance
1350.90	Scope and Function
1350.100	Notification of Employment
1350.110	Employment by a Professional Corporation or Partnership
1350.115	Renewals
1350.116	Restoration
1350.117	Endorsement
1350.120	Granting Variances

AUTHORITY: Implementing Section 9 of the Physician Assistant Practice Act of 1987 [225 ILCS 95] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 4 Ill. Reg. 34, p. 200, effective August 13, 1980; codified at 5 Ill. Reg. 11051; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 8 Ill. Reg. 3027, effective February 29, 1984; transferred from Chapter I, 68 Ill. Adm. Code 350 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1350 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2960; amended at 18 Ill. Reg. 18046, effective December 12, 1994; amended at 22 Ill. Reg. 3891, effective February 5, 1998; amended at 23 Ill.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Reg. 3999, effective March 19, 1999; amended at 24 Ill. Reg. 16680, effective October 27, 2000; amended at 33 Ill. Reg. 1484, effective January 8, 2009.

Section 1350.20 Definitions

"Act" means the Physician Assistant Practice Act of 1987 [225 ILCS 95].

"Advisory Committee" means the Physician Assistant Advisory Committee to the Medical Licensing Board.

"Alternate Supervising Physician" means a physician designated by the supervising physician in accordance with Section 4(8) of the Act. The alternate supervising physician shall maintain all the same responsibilities as the supervising physician. *Nothing in this Part shall be construed as to limit the reasonable number of alternate supervising physicians provided they are designated by the supervising physician.* (Section 4 of the Act [225 ILCS 95/4])

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

["Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.](#)

"Disciplinary Board" means the Medical Disciplinary Board established pursuant to Section 7 of the Medical Practice Act [225 ILCS 60].

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

"Licensing Board" means the Medical Licensing Board established pursuant to Section 8 of the Medical Practice Act.

"Mid-level Practitioner Controlled Substances License" means a license issued by the [DivisionDepartment](#) pursuant to the Illinois Controlled Substances Act to a licensed physician assistant who has been delegated prescriptive authority by a supervising physician for Schedule III, IV and/or V controlled substances.

"Physician Assistant" means a person licensed by the [DivisionDepartment](#) and who practices in accordance with the provisions set forth in the Physician

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Assistant Practice Act of 1987. A physician assistant is only authorized to practice within the current scope of practice of the supervising physician/alternate supervising physician and is further limited by his/her education, training and experience.

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

"Supervising Physician" means a physician licensed to practice medicine in all of its branches under the Medical Practice Act and who is the primary supervising physician of the physician assistant in accordance with Section 4(7) of the Act. *No more than two physician assistants shall be supervised by the supervising physician, although a physician assistant shall be able to hold more than one professional position.* (Section 7 of the Act)

(Source: Amended at 33 Ill. Reg. 1484, effective January 8, 2009)

Section 1350.25 Fees

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

a) Application Fees.

The fee for application for a license as a physician assistant is \$50.

b) Renewal Fees.

The fee for the renewal of a license shall be calculated at the rate of \$40 per year.

c) General Fees.

1) The fee for the restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees.

2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license ~~that~~^{which} has been lost or destroyed or for the issuance of a license 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~~^{Department} records when no duplicate license is

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issued.

- 3) The fee for a certification of a licensee's record for any purpose is \$20.
- 4) The fee for a wall certificate showing licensure shall be the actual cost of producing [thesueh](#) certificate.
- 5) The fee for a roster of persons licensed as physician assistants in this State shall be the actual cost of producing such a roster.

(Source: Amended at 33 Ill. Reg. 1484, effective January 8, 2009)

Section 1350.30 Approved Programs

A program approved by the [DivisionDepartment](#) shall consist of one of the following:

- a) A program that has been approved by the Committee on Allied Health Education and Accreditation of the American Medical Association, or its successor agency, for the training of physician assistants; or
- b) Educational programs that meet the criteria specified by the National Commission on Certification of Physician Assistants, or its successor agency, for eligibility to the Certifying Examination.

(Source: Amended at 33 Ill. Reg. 1484, effective January 8, 2009)

Section 1350.40 Application for Licensure

- a) An applicant for licensure as a physician assistant shall file an application on forms provided by the [DivisionDepartment](#). The application shall include:
 - 1) Certification of graduation from an approved program that meets the requirements set forth in Section 1350.30 of this Part or certification from the National Commission on Certification of Physician Assistants, or its successor agency, that the applicant has substantially equivalent training and experience;
 - 2) Certification of successful completion of the Physician Assistant National Certifying Examination. The certification shall be forwarded to the

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~~Division~~Department from the National Commission on Certification of Physician Assistants, or its successor agency;

- 3) ~~Current valid certification issued by the National Commission on Certification of Physician Assistants (NCCPA) or its successor agency~~A complete work history since graduation from a physician assistant program;
 - 4) ~~A certification~~Certification, on forms provided by the Department, from the jurisdiction of original licensure and current licensure all states in which an applicant was licensed and is currently licensed, if applicable, stating:
 - A) The ~~time during which the applicant was licensed in that state, including the~~ date of ~~the original~~ issuance and status of the license; and
 - B) Whether the records of the licensing authority contain~~file on the applicant contains~~ any record of disciplinary actions taken or pending;
 - 5) The fee required in Section 1350.25 of this Part.
- b) A physician assistant license will be issued when the applicant meets the requirements set forth above. However, a physician assistant may not practice until a notice of employment has been filed in accordance with Section 1350.100 of this Part.
 - c) The supervising physician shall submit a notice of prescriptive authority indicating the physician assistant has been delegated prescriptive authority. If the physician assistant is supervised by more than one physician, a separate notice of prescriptive authority shall be submitted by each supervising physician. In addition, if prescriptive authority includes Schedule III, IV and/or V controlled substances, the physician assistant will be required to apply for a mid-level practitioner license in accordance with the Illinois Controlled Substances Act.

(Source: Amended at 33 Ill. Reg. 1484, effective January 8, 2009)

Section 1350.50 Temporary Certificate (Repealed)

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- a) ~~A person may obtain a temporary certificate pursuant to Section 14 of the Act by filing an application for physician assistant licensure in accordance with Section 1350.40. In lieu of the certification of successful completion of the examination required in Section 1350.40(a)(2), the applicant shall submit:~~
- ~~1) Proof of admission to the Physician Assistant National Certifying Examination given by the National Commission on Certification of Physician Assistants or its successor agency; and~~
 - ~~2) An authorization to release examination scores from the National Commission on Certification of Physician Assistants, or its successor agency, to the Department.~~
- b) ~~Qualified applicants shall receive a temporary certificate which shall be valid until:~~
- ~~1) Notification of failure of the examination;~~
 - ~~2) Certification from the National Commission on Certification of Physician Assistants of passage of the examination, at which time the physician assistant license will be issued; or~~
 - ~~3) 15 months has elapsed.~~
- c) ~~A physician assistant may not practice on a temporary certificate until a notice of employment has been filed in accordance with Section 1350.100 of this Part.~~
- d) ~~Prescriptive authority may not be delegated to a holder of a temporary certificate.~~

(Source: Repealed at 33 Ill. Reg. 1484, effective January 8, 2009)

Section 1350.55 Prescriptive Authority

- a) *A supervising physician may delegate limited prescriptive authority to a physician assistant. This authority may, but is not required to, include prescription and dispensing of legend drugs and legend controlled substances categorized as Schedule III, IV, or V controlled substances, as defined in Article II of the Illinois Controlled Substances Act, as delegated in the written guidelines required by the*

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Physician Assistant Practice Act of 1987. *To prescribe Schedule III, IV, or V controlled substances under this Section, a physician assistant must obtain a mid-level practitioner controlled substances license. Medication orders issued by a physician assistant shall be reviewed periodically by the supervising physician. The supervising physician shall file with the ~~Division~~Department notice of delegation of prescriptive authority to a physician assistant and termination of delegation, specifying the authority delegated or terminated. Upon receipt of this notice delegating authority to prescribe Schedule III, IV, or V controlled substances, the physician assistant shall be eligible to register for a mid-level practitioner controlled substances license under Section 303.05 of the Illinois Controlled Substances Act. Nothing in this Act shall be construed to limit the delegation of tasks or duties by the supervising physician to a nurse or other appropriately trained personnel.* (Section 7.5 of the Act)

- b) Written Guidelines.
- 1) If the supervising physician has delegated prescriptive authority to the physician assistant, the written guidelines shall include a statement indicating that the supervising physician has delegated prescriptive authority for legend drugs and any schedule of controlled substances. The delegation must be appropriate to the physician's practice and within the scope of the physician assistant's training.
 - 2) The written guidelines shall be signed by both the physician and the physician assistant and a copy maintained at each location where the physician assistant practices along with the physician assistant's state controlled substance license number and the Drug Enforcement Administration (DEA) registration number.
- c) A physician assistant may only prescribe or dispense prescriptions or orders for drugs and medical supplies within the scope of practice of the supervising physician or alternate supervising physician.
- d) The name of the supervising physician shall appear on any prescription written by the physician assistant.

(Source: Amended at 33 Ill. Reg. 1484, effective January 8, 2009)

Section 1350.80 Supervision of Performance

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- a) The supervising physician/alternate supervising physician shall maintain the final responsibility for the care of the patient and the performance of the physician assistant.
- b) Delegated procedures and tasks performed by the physician assistant shall be within the current scope of practice of the supervising physician or designated alternate supervising physician with whom the physician assistant is working at the time.
- c) The supervising physician may supervise no more than two physician assistants. However, a physician assistant shall be able to hold more than one professional position.
- d) Any time the supervising physician is unable to provide the appropriate supervision to the physician assistant, he/she shall designate an alternate supervising physician to provide ~~thesuch~~ supervision. The ~~name~~~~name(s)~~ of the alternate supervising ~~physician~~~~physician(s)~~ shall be identified in the guidelines established by the supervising physician. *It is the responsibility of the supervising physician to maintain documentation each time he or she has designated an alternate supervising physician. This documentation shall include the date alternate supervisory control began, the date alternate supervisory control ended, and any other changes. A supervising physician shall provide a copy of this documentation to the Division, upon request.*~~If the supervising physician will be unable to supervise the physician assistant for more than 30 days, he/she shall notify the Department, on forms prescribed by the Department. Failure of the supervising physician to notify the Department shall be grounds for discipline of the physician's license. (Section 7 of the Act)~~
- e) When under supervision of an alternate supervising physician, the physician assistant may carry out those duties that are contained within the established guidelines of the physician/physician assistant team. An alternate supervising physician shall be subject to the same supervision responsibilities as the supervising physician.
- f) It is the responsibility of the supervising physician to direct and review the work, records and practice of the physician assistant on a timely basis to ensure that appropriate directions are given and understood and that appropriate treatment is being rendered.

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- g) In the event that the supervising physician is not present in the same facility as the physician assistant, the supervising physician should be within reasonable travel distance from the facility so that the supervising physician can personally assure the proper care of his/her patients.
- h) The supervising physician shall have full authority and responsibility to direct, supervise and limit the role of a physician assistant. Nothing contained herein shall be deemed to alter the fact that a physician assistant shall continue to bear responsibility for his/her actions to the extent that the physician assistant fails to comply with physician directives or is not carrying out those directives in a professional and appropriate manner in conformance with his/her training.
- i) The physician assistant shall only work under the direction of the current supervising physician or alternate supervising physician and may undertake patient care responsibilities only for the patients of the supervising physician or alternate supervising physician.

(Source: Amended at 33 Ill. Reg. 1484, effective January 8, 2009)

Section 1350.100 Notification of Employment

- a) A physician assistant shall not perform any medical procedure or other task delegated by a supervising physician until written notice of the employment and the assumption of supervisory control of the physician assistant by the supervising physician is received and acknowledged by the ~~Division~~Department. In addition, if an alternate supervising ~~physician~~physician(s) will be supervising a physician assistant in the absence of the primary supervising physician, documentation shall be maintained by the primary supervising physician. The documentation shall include the date alternate supervisory control began, the date alternate supervisory control ended, and any other changes~~the alternate supervising physician(s) shall be designated on the same forms.~~
- b) If a physician assistant ceases to be in the supervisory control of the supervising physician whose notice of employment is currently on file with the ~~Division~~Department, the supervising physician shall give written notice to the ~~Division~~Department within 10 days after the termination of employment or supervisory control. ~~The Department shall be notified in the same manner of any change of the alternate supervising physician.~~

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(Source: Amended at 33 Ill. Reg. 1484, effective January 8, 2009)

Section 1350.115 Renewals

- a) All licenses issued under the Act shall expire on March 1 of each even-numbered year. The holder of a license may renew the license during the month preceding the expiration date ~~thereof~~ by paying the required fee. ~~1)The licensee shall indicate on the renewal application the name(s) of the supervising physician(s) and alternate supervising physician(s), if applicable. 2)If the supervising physician~~ ~~physician(s) and/or alternate supervising physician(s)~~ indicated on the renewal application is different from that on file with the ~~Division~~Department, a current Notification of Employment shall be filed pursuant to Section 1350.100.
- b) It is the responsibility of each physician assistant to notify the ~~Division~~Department of any change of address. Failure to receive a renewal form from the ~~Division~~Department shall not constitute an excuse for failure to pay the renewal fee.
- c) Practice on an expired license shall be considered unlicensed practice and shall be grounds for discipline pursuant to Section 21 of the Act.

(Source: Amended at 33 Ill. Reg. 1484, effective January 8, 2009)

Section 1350.116 Restoration

- a) A person seeking restoration of a license that has expired for 3 years or less shall have the license restored upon payment of all lapsed renewal fees required by Section 1350.25 of this Part.
- b) A person seeking restoration of a license that has been placed on inactive status for 3 years or less shall have the license restored upon payment of the current renewal fee.
- c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than 3 years shall file an application, on forms supplied by the ~~Division~~Department, ~~including the applicant's work history since the license expired~~ and the fee required by Section 1350.25 of this Part. The person shall also submit either:

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- 1) Sworn evidence of active practice in another jurisdiction. ~~The~~Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of said active practice; or
 - 2) An affidavit attesting to military service as provided in Section 15 of the Act; or
 - 3) Successful completion of the examination administered by and proof of current certification from the National Commission on the Certification of Physician Assistants or its successor agency.
- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the ~~Division~~Department because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration of a license shall be requested to:
- 1) Provide ~~such~~ information as may be necessary; and/or
 - 2) Appear for an interview before the Advisory Committee to explain ~~the~~such relevance or sufficiency, clarify information or clear up any discrepancies or conflict in information. Upon the recommendation of the Licensing Board and approval by the Director, an applicant shall have the license restored or will be notified in writing of the reason for the denial of the application.
- e) A physician assistant license will be issued when the applicant meets the requirements set forth above. However, a physician assistant may not practice until a notice of employment has been filed in accordance with Section 1350.100 of this Part.
- f) The supervising physician shall submit a notice of prescriptive authority indicating the physician assistant has been delegated prescriptive authority. If the physician assistant is supervised by more than one physician, a separate notice of prescriptive authority shall be submitted by each supervising physician. In addition, if prescriptive authority includes Schedule III, IV and/or V controlled substances, the physician assistant will be required to apply for a mid-level

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practitioner license in accordance with the Illinois Controlled Substances Act.

(Source: Amended at 33 Ill. Reg. 1484, effective January 8, 2009)

Section 1350.117 Endorsement

- a) An applicant for licensure as a physician assistant who is licensed under the laws of another state shall file an application with the ~~Division that~~ Department which shall include:
- 1) A certification from the jurisdiction of original licensure and current licensure ~~all states in which the applicant was licensed and is currently licensed~~, stating:
 - A) The date of issuance and status of the license ~~time during which the applicant was licensed in that jurisdiction~~; and
 - B) Whether the records of the licensing authority contain ~~file on the applicant contains~~ any record of any disciplinary actions taken or pending;
 - 2) Current valid certification issued by the National Commission on Certification of Physician Assistants (NCCPA) or its successor agency ~~A complete work history indicating all employment since graduation from a program that meets the requirements set forth in Section 1350.30~~;
 - 3) Certification of successful completion of the Physician Assistant National Certifying Examination given by the National Commission on Certification of Physician Assistants, or its successor agency;
 - 4) The required fee set forth in Section 1350.25 of this Part.
- b) The ~~Division~~ Department shall examine each endorsement application to determine whether the requirements in the other state at the date of licensing were substantially equivalent to the requirements then in force in this State or equivalent to the requirements of the ~~and whether the applicant has otherwise complied with the~~ Act. The ~~Division~~ Department shall either issue a license by endorsement or notify the applicant of the reasons for the denial of the application.

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- c) A physician assistant license will be issued when the applicant meets the requirements set forth above. However, a physician assistant may not practice until a notice of employment has been filed in accordance with Section 1350.100 of this Part.
- d) The supervising physician shall submit a notice of prescriptive authority indicating the physician assistant has been delegated prescriptive authority. If the physician assistant is supervised by more than one physician, a separate notice of prescriptive authority shall be submitted by each supervising physician. In addition, if prescriptive authority includes Schedule III, IV and/or V controlled substances, the physician assistant will be required to apply for a mid-level practitioner license in accordance with the Illinois Controlled Substances Act.

(Source: Amended at 33 Ill. Reg. 1484, effective January 8, 2009)

Section 1350.120 Granting Variances

- a) The Director may grant variances from ~~this Part~~these rules in individual cases ~~when~~where he/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 Medical Licensing Board and the Advisory Committee of the granting of ~~the~~such variance, and the reasons ~~for granting the variance~~therefor, at the next meeting of the Licensing Board.

(Source: Amended at 33 Ill. Reg. 1484, effective January 8, 2009)

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- 1) Heading of the Part: Predatory Lending Database Program
- 2) Code Citation: 47 Ill. Adm. Code 390
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
390.101	New Section
390.102	New Section
390.103	New Section
390.104	New Section
390.105	New Section
390.106	New Section
390.107	New Section
390.108	New Section
390.109	New Section
390.110	New Section
390.111	New Section
390.201	New Section
390.202	New Section
390.301	New Section
390.302	New Section
390.303	New Section
390.304	New Section
390.305	New Section
390.306	New Section
390.307	New Section
390.308	New Section
390.309	New Section
- 4) Statutory Authority: Implemented and authorized by P.A. 95-0731, the Illinois Housing Development Act [20 ILCS 3905/7.19-.20] and the Residential Real Property Disclosure Act [765 ILCS 77/80]. (The Illinois Housing Development Authority (Authority) is the designated administrator for the Predatory Lending Database (the "Program") in Illinois, which was established by the Residential Real Property Disclosure Act, effective July 1, 2008.)
- 5) Effective Date of Rules: January 7, 2009
- 6) Does this rulemaking contain an automatic repeal date? No

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- 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 agency's principal office and is available for public inspection.
- 9) Notice of Proposed Published in the Illinois Register: September 26, 2008; 32 Ill. Reg. 15201
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:

In Table of Contents 390.307, "Allocations" was changed to "Grants".

In Authority Note, "(Authority)" was deleted; "(the Program)" was deleted; "The Illinois Housing Development Authority is the designated administrator for the Predatory Lending Database in Illinois, which was established by the Residential Real Property Disclosure Act, effective July 1, 2008." was deleted.

In Section 390.101 titled Authority, "the" before "Section" was deleted; "the Predatory Lending Database Program" was changed to "that Program"; "Program" was deleted; "The Illinois Housing Development Authority is the designated administrator for the Predatory Lending Database in Illinois, which was established by the Residential Real Property Disclosure Act, effective July 1, 2008." was added as the last sentence of the section.

In Section 390.102 titled Purpose and Objectives, "[765 ILCS 77/80]" was deleted.

In Section 390.103 titled Definitions, in the definition of "Act", "[765 ILCS 77/80]" was added at the end of the definition; "/80" was deleted.

In Section 390.103 titled Definitions, in the definition of "Application", "the" before agency was changed to "an".

In Section 390.103 titled Definitions, in the definition of "File Review", "Residential Real Property Disclosure was deleted; "[765 ILCS 77/70 (d)]" was deleted.

In Section 390.103 titled Definitions, in the definition of "Hud-Certified Counseling or Counseling", "housing" was added after "certified"; "where" was changed to "when."

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In Section 390.103 titled Definitions, in the definition of "Pilot Program", "Pilot Program: The predatory lending database pilot program established by Public Act 094-0280, effective January 1, 2006" was added.

In Section 390.105 titled Forms and Procedures for the Program, the comma after "supplement" was deleted; comma after "agreements" was deleted.

In Section 390.108 titled Amendment, the comma after "amended" was deleted.

In Section 390.109 titled Severability, the comma after "Section" was deleted; comma after "impair" was deleted; comma after "Section" was deleted.

In Section 390.111 titled Titles and Captions, the comma after "Sections" was deleted.

In Section 390.201 titled Distribution of Appropriated Funds, "where" was changed to "when"; "Public Act 094-280" was changed to "the Act"; "any experience performing activities under the predatory lending database pilot program established under Section 70 of the Act, effectively January 1, 2006" was changed to " under the Pilot Program".

In Section 390.202 titled Staged Distribution, the comma after "sum" was added.

In Section 309.301 Agency Eligibility, the comma after "Washington" was deleted; periods in "DC" were deleted; "are" was deleted.

In Section 390.304 titled Application Requirements, "will" was changed to "shall"; "housing" was added after "certified".

In Section 390.304 titled Application Requirements, "grants" was added after "which"; "Appropriation" was deleted; "contemplated" was changed to "requested."

In Section 390.304 titled Application Requirements, "will" was changed to "shall".

In Section 390.304 titled Application Requirements, "will" was changed to "shall"; "490.404" was changed to "390.302"; "Residential Real Property Disclosure" was deleted; "Section 390.302, Eligible Grant Activities" was deleted.

In Section 390.306 titled Grant Administration, "Allocation" was changed to "Grant".

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In Section 390.306 titled Grant Administration, "HUD-Certified Housing Counseling" was deleted.

In Section 390.307 titled Funding of Grants, "Allocations" was changed to "Grants."

In Section 390.309 titled Books and Records, "allocating Agency" was changed to "Authority"; "allocating Agency" was changed to "Authority"; "Sponsor and such Affordable Housing Project" was changed to "Agency"; "Residential Real Property Disclosure" was deleted; "[765 ILCS 77/70]" was deleted.

- 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? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: The rules involve the administration of the Predatory Lending Database Program.
- 16) Information and questions regarding this rulemaking shall be directed to:

Charlotte Flickinger
401 N. Michigan Ave., Ste. 700
Chicago, IL 60611

312/836-5240

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

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TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITYPART 390
PREDATORY LENDING DATABASE PROGRAM

SUBPART A: GENERAL RULES

Section	
390.101	Authority
390.102	Purpose and Objectives
390.103	Definitions
390.104	Compliance with Federal Law
390.105	Forms and Procedures for the Program
390.106	Fees and Charges
390.107	Authority Administrative Expenses
390.108	Amendment
390.109	Severability
390.110	Gender and Number
390.111	Titles and Captions

SUBPART B: DISTRIBUTION OF FUNDS

390.201	Distribution of Appropriated Funds
390.202	Staged Distribution

SUBPART C: GRANTS TO HUD-CERTIFIED
HOUSING COUNSELING AGENCIES

390.301	Agency Eligibility
390.302	Eligible Grant Activities
390.303	Application Cycle
390.304	Application Requirements
390.305	Review of Applications
390.306	Grant Administration
390.307	Funding of Grants
390.308	Reporting Requirements for Agencies
390.309	Books and Records

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AUTHORITY: Implementing and authorized by the Illinois Housing Development Act [20 ILCS 3905/7.19] and the Residential Real Property Disclosure Act [765 ILCS 77/80].

SOURCE: Emergency rules adopted at 32 Ill. Reg. 16013, effective September 15, 2008, for a maximum of 150 days; adopted at 33 Ill. Reg. 1499, effective January 7, 2009.

SUBPART A: GENERAL RULES

Section 390.101 Authority

This Part is established to set forth the standards for the distribution of funds by the Illinois Housing Development Authority under Section 80 of the Residential Real Property Disclosure Act [765 ILCS 77/80] for the purpose of making Grants to HUD-certified counseling agencies participating in the Predatory Lending Database Program to assist with implementation and development of that Program. The Illinois Housing Development Authority is the designated administrator for the Predatory Lending Database in Illinois, which was established by the Residential Real Property Disclosure Act, effective July 1, 2008.

Section 390.102 Purpose and Objectives

This Part is established to accomplish the purposes of Section 80 of the Residential Real Property Disclosure Act, and in particular the awarding of Predatory Lending Database Grant Program grants.

Section 390.103 Definitions

As used in this Part, the following words or terms mean:

"Act": Residential Real Property Disclosure Act [765 ILCS 77].

"Agency" or "Agencies": HUD-certified housing counseling agencies selected for participation in the Program.

"Appropriation": The annual Appropriation of funds to the Illinois Department of Revenue for the Authority by the Illinois General Assembly for the Program.

"Authority": The Illinois Housing Development Authority.

"Application": The application for a grant completed by an Agency.

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"Commitment": A contract executed by the Authority and an Agency under which the Authority agrees to provide funding to the Agency under the Program. Each Commitment shall contain a provision to the effect that the Authority shall not be obligated to provide funds under the Commitment if the Authority has not received sufficient funds from an Appropriation.

"Department": The Illinois Department of Financial and Professional Regulation.

"File Review": The interview performed by the Agency pursuant to Section 70 of the Act.

"Grant": A portion of the Appropriation distributed to an Agency to administer the Program.

"HUD-certified Counseling" or "Counseling": In-person counseling provided by a counselor employed by a HUD-certified housing counseling agency to all borrowers, or documented telephone counseling when a hardship would be imposed on one or more borrowers. A hardship shall exist in instances in which the borrower is confined to his or her home due to medical conditions, as verified in writing by a physician, or the borrower resides 50 miles or more from the nearest participating HUD-certified housing counseling agency. In instances of telephone counseling, the borrower must supply all necessary documents to the counselor at least 72 hours prior to the scheduled telephone counseling session.

"Initial Distribution": The first portion of the Grant distributed to an Agency as a lump sum.

"Maintenance Distribution": The second portion of the Grant distributed to an Agency quarterly.

"Members": The members of the Authority.

"Pilot Program": The predatory lending database pilot program established by PA 94-280, effective January 1, 2006.

"Program": The Predatory Lending Database Grant Program administered by the Department of Financial and Professional Regulation.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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Section 390.104 Compliance with Federal Law

Notwithstanding anything in this Part to the contrary, this Part shall be construed in conformity and compliance with applicable federal law.

Section 390.105 Forms and Procedures for the Program

The Authority may prepare, use, supplement and amend forms, agreements and other documents and procedures as may be necessary to implement the Program, all as may be prescribed by the Authority.

Section 390.106 Fees and Charges

The Authority will charge no application fee for this Program.

Section 390.107 Authority Administrative Expenses

The Authority shall be entitled to deduct an amount not to exceed 3% of the Appropriation from each Appropriation for expenses associated with the administration of the Program, including, without limitation, expenses for staff salaries and benefits for time spent on design and administration of the Program; expenses incurred in performing outreach activities and providing technical assistance to Agencies; the use of the Authority's equipment for Program purposes; the cost of office space and utilities incurred in connection with the Program; and any other expenses incurred in the administration of the Program.

Section 390.108 Amendment

This Part may be supplemented, amended or repealed by the Members from time to time and in such manner as they may determine consistent with this Part, the Act, including but not limited to Section 80, and other applicable provisions of law. This Part shall not constitute or create any contractual rights.

Section 390.109 Severability

If any clause, sentence, paragraph, subsection, Section or Subpart of this Part is adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair or invalidate the remainder of this Part, but shall be confined in its operation to the clause, sentence, paragraph, subsection, Section or Subpart as to which that judgment is rendered.

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Section 390.110 Gender and Number

All terms used in any one gender or number shall be construed to include any other gender or number as the context may require.

Section 390.111 Titles and Captions

Titles and captions of Subparts, Sections and subsections are used for convenience and reference and are not a part of the text.

SUBPART B: DISTRIBUTION OF FUNDS

Section 390.201 Distribution of Appropriated Funds

The Authority will distribute grants to Agencies providing housing counseling services within the geographic boundaries of Cook County. Grant awards to Agencies under the Program will be based on the Agency's current capacity, qualifications, proposed geographic service area, experience performing File Reviews under the Pilot Program, when applicable, and other requirements outlined in Section 390.304 of this Part and the Application. Agencies need not have performed File Reviews prior to application in order to qualify for a Grant.

Section 390.202 Staged Distribution

Each Agency approved by the Authority under the Program will receive a Grant for a term of up to two years. Each Grant will be distributed in two stages. The Initial Distribution will be a lump sum, determined by the Authority in accordance with Section 390.201 of this Part, to be used to increase the Agency's capacity, as determined by the Authority in conjunction with the Agency. The Maintenance Distribution will be a smaller amount distributed quarterly through the term of the grant, and will be based on the Agency's performance under the grant and continued willingness to perform File Reviews.

SUBPART C: GRANTS TO HUD-CERTIFIED
HOUSING COUNSELING AGENCIES**Section 390.301 Agency Eligibility**

Agencies are eligible for funding if they have been certified as a housing counseling agency by the U.S. Department of Housing and Urban Development as set forth in the U.S. Department of Housing and Urban Development Housing Counseling Program Handbook 7610.1, Rev-4,

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(published October 21, 2004, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Washington DC 20410, no subsequent amendments or editions included). Agencies must also have been certified prior to their application for Program funding, commit to participation in the Program and agree to the terms and conditions of the Program in order to be eligible.

Section 390.302 Eligible Grant Activities

Without limitation, computer and equipment purchases, staff salaries and benefits, office space, utility bills, marketing materials, training, and other activities that support carrying out duties under the Predatory Lending Database Program outlined in Section 80 of the Residential Real Property Disclosure Act are eligible for funding under this Program.

Section 390.303 Application Cycle

The Authority will supply interested qualified applicants with an Application upon request. Applications under this Program will be accepted periodically until the Appropriation is disbursed as outlined in Section 390.202.

Section 390.304 Application Requirements

Each Application for Program funds shall include the information required by this Section and any additional information the Authority may require to promote efficient program administration and quality of performance, provided that those requirements are included in the Application to be completed by the Agency.

- a) **Qualifications:** Each Applicant shall document qualifications to complete the Program activities, including without limitation documentation as a HUD-certified housing counseling agency.
- b) **Number of File Reviews:** If applicable, each Applicant shall determine and document the number of File Reviews completed for the Predatory Lending Database prior to Application, including any File Reviews performed prior to July 1, 2008.
- c) **Documentation of Need:** Each Applicant shall determine the projected need for File Reviews for the fiscal year for which grants are requested.

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- d) Capacity: Each Applicant will document how capacity shall be expanded to meet the need described in subsection (b) of this Section.
- e) Activities to be Undertaken: Each Application shall list activities to be undertaken with Program funds, including without limitation those activities outlined under this Part and the Act.
- f) Time for Expending: Each Application shall include a budget and timeline schedule for performing the activities outlined in the Application.

Section 390.305 Review of Applications

- a) Application Screening. The Authority shall screen all Applications to determine that all elements of the Application package have been addressed. Applicants will be notified of deficiencies in Applications and given the opportunity to correct those deficiencies. Complete Applications will be reviewed and evaluated by Authority staff in accordance with criteria listed in subsections (b) through (e) of this Section. This review and evaluation process will be completed within 30 working days after the due date for Applications.
- b) Basic Eligibility Evaluation. Each Application will be reviewed to assure compliance with the Act and this Part.
- c) Willingness to Perform. The Agency must commit to remain ready, willing and able to perform File Reviews throughout the period of the Commitment.
- d) Costs. The Agency must demonstrate that the costs identified in the Application are eligible Program costs under the Act and this Part.
- e) Program Objectives and Methodology. The Applicant must demonstrate that the activities undertaken under the Program can be accomplished, in that:
 - 1) activities are measurable and will benefit the purposes of the Program as described in the Act and this Part; and
 - 2) proposed activities logically address the problems or opportunities identified in the Application.

Section 390.306 Grant Administration

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- a) **Commitment:** Each Agency shall enter into a Commitment with the Authority; the Grant may be less than the amount requested in the Application. The term of Commitments may be up to two years, subject to the availability of funds from an Appropriation, and may be renewed if Appropriation is made available and the agency performs satisfactorily under the first Grant.
- b) **Record Retention:** Each Agency shall maintain records in connection with administration of the Program, including all records required by the U.S. Department of Housing and Urban Development as part of its continuing compliance with requirements for Agencies. Records shall be retained for five years after the date of termination of the Commitment.
- c) **Agency Monitoring:** The Authority shall have the right to monitor all Agency records relating to the administration of the grant by the Authority. Each Agency shall make all records relating to its Commitment available for inspection by the Authority upon the Authority's request. The required documentation may include a copy of the Agency's Application to the Authority; all records relating to training, equipment purchases, staff salaries and benefits, and other activities undertaken with Program funds; documentation of activities performed under the Program; and any other documentation required by the Authority.

Section 390.307 Funding of Grants

During the term of each Commitment with an Agency, the Authority shall provide funds to Agencies when Appropriation is made available and as outlined in Sections 390.202 and 390.302.

Section 390.308 Reporting Requirements for Agencies

Each Agency shall provide reports to the Authority, on forms provided by the Authority, at the end of each quarter of the term of its Commitment. The report shall identify, at a minimum, certification that the Agency was available to complete File Reviews, the number of File Reviews referred and performed, expenditures incurred and amounts expended for each purchase or expense.

Section 390.309 Books and Records

The books and records of each Agency and each Affordable Housing Project shall be subject to

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inspection, examination and copying by the Authority and its authorized representatives or agents at such times as the Authority reasonably requires for the purpose of determining whether the Agency is in compliance with the Act and this Part.

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NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Homeowner Mortgage Revenue Bond Program
- 2) Code Citation: 47 Ill. Adm. Code 260
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
260.103	Amendment
260.104	Amendment
260.107	Amendment
260.108	Amendment
260.110	Amendment
260.201	Amendment
260.202	Repealed
260.203	Repealed
260.204	Amendment
206.205	Amendment
260.301	Repealed
260.302	Repealed
206.303	Repealed
206.304	Repealed
206.305	Repealed
260.401	Amendment
260.402	Amendment
260.403	Amendment
260.405	Amendment
260.407	Repealed
260.501	Amendment
260.502	Amendment
260.503	Repealed
260.506	Amendment
- 4) Statutory Authority: Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23]
- 5) Effective Date of Amendments: January 7, 2009
- 6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: These emergency rules will expire at the end of the 150 day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: January 7, 2009

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- 8) A copy of the emergency amendments, is on file at the Illinois Housing Development Authority, 401 N. Michigan Ave., Ste. 700, Chicago, IL 60611.
- 9) Reason for Emergency: The reason for the emergency is that the rules must conform to certain changes in the Homeowner Mortgage Revenue Bond Program whereby certain single family mortgage loans (the "Loans") will be insured by the US Department of Housing and Urban Development through its Federal Housing Administration Program. The Illinois Housing Development Authority (the "Authority") will utilize the services of a Master Servicer, to purchase, pool and securitize the Loans as securities, which the Authority will purchase with the Homeowner Mortgage Revenue Bonds as well as to service the Loans.
- 10) A Complete Description of the Subjects and Issues Involved: The amendments involve the administration of the Homeowner Mortgage Revenue Bond Program.
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objective: These emergency amendments do not create, expand or modify a State mandate.
- 13) Information and questions regarding this amendment shall be directed to:

Colleen Saccotelli
401 N. Michigan Ave., Ste. 700
Chicago, IL 60611

312/836-5214

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

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TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITYPART 260
HOMEOWNER MORTGAGE REVENUE BOND PROGRAM

SUBPART A: GENERAL RULES

Section

260.101	Authority
260.102	Purposes and Objectives
260.103	Definitions
	EMERGENCY
260.104	Borrowing by the Authority
	EMERGENCY
260.105	Compliance with Federal Law
260.106	Standards
260.107	Forms for the Program
	EMERGENCY
260.108	Fees and Charges of the Authority
	EMERGENCY
260.109	Waiver (Repealed)
260.110	Amendment
	EMERGENCY
260.111	Severability
260.112	Gender and Number
260.113	Titles and Captions
260.114	Calendar Days

SUBPART B: LENDER APPLICATION PROCESS

Section

260.201	Invitations to Participate in the Programs Sell Mortgage Loans
	EMERGENCY
260.202	Security for Allocation of Net Proceeds (Repealed)
	EMERGENCY
260.203	Allocation of Net Proceeds for Purchase of Mortgage Loans (Repealed)
	EMERGENCY
260.204	Notice of Acceptance

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| [EMERGENCY](#)

260.205 Commitments for Mortgage Loans

| [EMERGENCY](#)

| SUBPART C: HOMEBUILDER APPLICATION PROCESS

Section

260.301 HomeBuilder Invitations ([Repealed](#))

| [EMERGENCY](#)

260.302 Reservation of Funds for Construction of Qualified Dwellings ([Repealed](#))

| [EMERGENCY](#)

260.303 Notice of Reservation of Funds ([Repealed](#))

| [EMERGENCY](#)

260.304 Real Estate Purchase Contracts ([Repealed](#))

| [EMERGENCY](#)

260.305 Transfer of Reserved Funds ([Repealed](#))

| [EMERGENCY](#)

| SUBPART D: PURCHASE OF MORTGAGE LOANS

Section

260.401 Mortgage Loans

| [EMERGENCY](#)

260.402 Yield on Mortgage Loans

| [EMERGENCY](#)

260.403 Terms and Conditions of the Purchase of Mortgage Loans

| [EMERGENCY](#)

260.404 Prepayment

260.405 Targeted Area Residences

| [EMERGENCY](#)

260.406 Supplemental Mortgage Coverage

260.407 Special Hazard Insurance ([Repealed](#))

| [EMERGENCY](#)

| SUBPART E: ADMINISTRATIVE RULES

Section

260.501 Restrictions on Return Realized by Lenders

| [EMERGENCY](#)

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260.502 Servicing of Mortgage Loans

[EMERGENCY](#)

260.503 Purchase of Authority Bonds ([Repealed](#))

[EMERGENCY](#)

260.504 Equal Opportunity Lending

260.505 Inspection of Books and Records

260.506 Termination

[EMERGENCY](#)

AUTHORITY: Authorized by Sections 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23].

SOURCE: Adopted at 18 Ill. Reg. 17229, effective November 16, 1994; amended at 22 Ill. Reg. 3851, effective February 4, 1998; emergency amendment at 31 Ill. Reg. 5883, effective March 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 12852, effective August 22, 2007; emergency amendment at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days.

SUBPART A: GENERAL RULES

Section 260.103 Definitions

[EMERGENCY](#)

As used in this Part, the following words or terms mean:

"Act": The Illinois Housing Development Act [20 ILCS 3805].

~~"Allocation": The amount of funds reserved to a Lender in a Series Program pursuant to a Lender Application and a Notice of Acceptance.~~

"Assistant Director": The Assistant [Executive](#) Director of the Authority.

"Authority": The Illinois Housing Development Authority.

"Bonds": The Homeowner Mortgage Revenue Bonds issued by the Authority pursuant to the Act from time to time to finance the Program.

"Code": The Internal Revenue Code of 1986 ([26 USC](#)), as amended and supplemented, and the regulations promulgated by the Treasury Department ([26](#)

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~~CFR)thereunder.~~

~~"Commitment Fee": The fee that the Authority may require a prospective HomeBuilder to pay to the Authority at the time it files its HomeBuilder Application.~~

"Deputy Director": The Deputy Executive Director of the Authority.

"Director": The Executive Director of the Authority.

"Eligible Borrower": A person:

who is or will be a resident of the State within ~~60~~sixty days after the closing of his or her purchase of a Qualified Dwelling;

whose Household Income does not exceed the Maximum Income;

who intends to use the Qualified Dwelling being financed by a Mortgage Loan as his or her permanent residence within 60 days after the closing of the Mortgage Loan;

who occupies or intends to occupy as a single household the Qualified Dwelling purchased or being purchased as a permanent residence; and

who at no time during the 3-year period ending on the date of closing of the Mortgage Loan had a present ownership interest in his or her principal residence.

An Eligible Borrower who purchases a Targeted Area Residence or a Qualified Rehabilitation Residence, or who qualifies under any other provision of the Code, is exempt from the 3-year requirement of this definition. For purposes of this definition, the Eligible Borrower's interest in the Qualified Dwelling financed under this Program shall not be taken into account.

A residence that is used as an investment property or a recreational home, or that is primarily intended to be used in a trade or business (including, without limitation, any residence of which more than 15% of the total area is reasonably expected to be used primarily in a trade or business), does not

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satisfy the requirements of this ~~paragraph~~_{subparagraph}.

"FHA": The Federal Housing Administration.

"FHLMC": The Federal Home Loan Mortgage Corporation.

"FmHA": The Farmer's Home Administration.

"FNMA": The Federal National Mortgage Association.

~~"HomeBuilder": An individual or entity approved by the Authority that:~~

~~for the 12-month period preceding the date of its HomeBuilder Application for participation in a Series Program had insurance coverage for product liability, worker's compensation and builder's risk;~~

~~and had constructed at least two buildings in that same 12-month period or, in the alternative, had constructed at least four buildings in the 24-month period preceding the date of its HomeBuilder Application for participation in a Series Program.~~

~~"HomeBuilder Application": A prospective HomeBuilder's application to construct Qualified Dwellings for sale to Eligible Borrowers pursuant to the terms of a HomeBuilder Participation Agreement and other Program documents.~~

~~"HomeBuilder Participation Agreement": The agreement between the Authority and a HomeBuilder pursuant to which the HomeBuilder agrees to construct new Qualified Dwellings for purchase by Eligible Borrowers, and the Authority agrees to purchase Mortgage Loans financing such newly constructed Qualified Dwellings, under the terms and conditions set forth therein.~~

"Household Income": The total annualized gross income of the Eligible Borrowers, and any other person who is expected to live in the Qualified Dwelling and be secondarily liable on the Note, all persons residing or intending to reside as a single household in a Qualified Dwelling, from whatever source derived and before taxes or withholdings; provided that if a married person takes title to the Qualified Dwelling individually the income of the spouse shall also be included.

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"Lender": A State-chartered bank, national banking association, mortgage banking association or institution, credit union, or State or federal savings and loan association:

that is located and qualified to do business in the State;

that is qualified to [originate and/or](#) sell mortgages to FNMA, ~~and/or~~ FHLMC, [and/or approved by FHA to originate loans](#) (this requirement may be waived by the Director after determination that the assets of the Lender exceed \$500,000, that the percentage of mortgage delinquencies in the Lender's single family portfolio do not exceed 2.15 times the Statewide average as determined by the last quarterly pronouncement by the United States Federal Home Loan Bank Board and that the Lender has an asset-to-liability ratio of at least [1.01:1](#)~~1.01/1~~);

the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or which deposits its funds in Illinois financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation; and whose Lender Application has been accepted by the Director, Deputy Director, ~~or~~ Assistant Director [or Managing Director](#) based upon the satisfaction of the requirements of the Series Program under which the Lender has submitted ~~the such~~ Lender Application and a determination of financial suitability after consideration of the net assets, lending capacity, and experience of the potential Lender over the past 12 months in residential mortgage lending. The Authority may also be a Lender.

"Lender Application": A prospective Lender's application to sell Mortgage Loans to the Authority [or participate in the Authority's Programs](#) pursuant to the terms of a Mortgage Purchase Agreement and other Series Program documents.

["Managing Director": A Managing Director of the Authority.](#)

"Maximum Income": Unless otherwise permitted by the Code, 115% of the median family income of either the metropolitan statistical area or primary metropolitan statistical area in which the Qualified Dwelling is located or the State, whichever is greater, as determined by the Internal Revenue Service.

"Members": The Members of the Authority.

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"Mortgage": The mortgage, or other instrument in the nature of a mortgage, creating a first mortgage lien on a fee interest in real estate, together with all supplements, modifications or amendments to it.

"Mortgage Loan": A loan made by a Lender to an Eligible Borrower for the purchase of a Qualified Dwelling and secured by a Mortgage on ~~thesueh~~ Qualified Dwelling. No Mortgage Loan shall be a replacement or refinancing of an existing mortgage loan except in the case of a Qualified Rehabilitation Loan or other temporary loans, as permitted by ~~section~~Section 143 of the Code.

"Mortgage Purchase Agreement": The agreement, including any amendments or supplements to the agreement, between the Authority and a Lender pursuant to which the Authority or its designee agrees to purchase Mortgage Loans from the Lender on the terms and conditions set forth in the agreement~~therein~~ and ~~that~~which establishes the requirements for Mortgage Loans to be purchased by the Authority or its designee, or otherwise allows participation in the Authority's Programs.

"Net Proceeds": With respect to the proceeds of each series of Bonds, all moneys made available by the Authority for the purchase of Mortgage Loans.

"Notice of Acceptance": The Authority's notice to a Lender accepting its Lender Application.

~~"Notice of Reservation of Funds": The Authority's notice to a HomeBuilder accepting its Homebuilder Application and setting forth the amount of the HomeBuilder's Reservation.~~

~~"This Part": This Part 260 (47 Ill. Adm. Code 260).~~

"Prepayment": Any moneys, however derived, that are received or recovered by the Authority from any payment of, or with respect to, principal on any Mortgage Loan prior to scheduled payments of principal required under ~~thatsueh~~ Mortgage Loan.

"Private Mortgage Insurance": Insurance coverage paid for by the Eligible Borrower that insures the Authority against losses with respect to defaults on a Mortgage Loan according to the terms of the insurance policy. The Authority may

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provide Private Mortgage Insurance or its equivalent.

"~~Programs~~~~Program~~": The Authority's single family mortgage purchase ~~programs~~~~program~~ that ~~are~~~~is~~ funded with proceeds of Bonds issued after the date of the adoption of the Resolution, or any other source of funds available to the Authority.

"Property Value": The lesser of the purchase price or the appraised value of the Qualified Dwelling at the time of the origination of the Mortgage Loan secured by ~~that~~~~sueh~~ Qualified Dwelling.

"Qualified Dwelling": A fee simple interest in real property:

that is located in the State;

upon which there is located a structure or structures designed for residential use;

that is a single family residence; a condominium unit meeting the requirements of the Mortgage Purchase Agreement; a one-, two-, three- or four-unit structure meeting the requirements of the Code; or factory-made housing that is permanently fixed to real property;

of which not more than 15% of the total area is reasonably expected to be used primarily in a trade or business; and

that can reasonably be expected to become the principal residence of the Eligible Borrower within a reasonable time after financing is provided. For purposes of this ~~paragraph~~~~subparagraph~~, a "reasonable time after financing is provided" shall be deemed to be a period within 60 days after closing of the Mortgage Loan. This period may be extended if the Authority determines that undue hardship to the Eligible Borrower or Lender or an unreasonable result will otherwise occur.

"Qualified Rehabilitation Loan": A Mortgage Loan for the purchase of a Qualified Rehabilitation Residence. An Eligible Borrower for a Qualified Rehabilitation Loan must be the first resident of the Qualified Rehabilitation Residence after the completion of the rehabilitation.

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"Qualified Rehabilitation Residence": A qualified Dwelling for which there has been a qualified rehabilitation, as defined in ~~section~~Section 143 of the Code.

~~"Reservation": The amount of funds reserved to a Homebuilder in a Series Program pursuant to a HomeBuilder Application and a Notice of Reservation of Funds.~~

"Resolution": The Authority's Homeowner Mortgage Revenue Bonds General Resolution setting forth the general terms and conditions under which the Authority may issue, deliver and sell Bonds.

"Rules": The rules of the Authority, as amended and supplemented from time to time (generally 47 Ill. Adm. Code Chapter II).

"Series Program": A mortgage purchase program authorized by a Series Resolution to become a part of the Program.

"Series Resolution": A resolution issued pursuant to the Resolution authorizing the Authority to conduct a Series Program and to issue Bonds to provide financing ~~for the purchase~~ of Mortgage Loans under ~~the such~~ Series Program.

"Servicer": A Lender, or its designated ~~Servicer~~servicer, that has been approved by the Director, Deputy Director or Assistant Director as a Servicer and that has executed a Servicing Agreement with the Authority. The Authority may also be a Servicer. A designated ~~Servicer~~servicer other than the Authority must be:

a State-chartered bank, national banking association, mortgage banking association or institution, credit union, ~~or~~ State or federal savings and loan association or mortgage servicing company;

~~that is~~ qualified to do business in the State;

~~that is~~ qualified to ~~servicesell~~ mortgages sold to the Authority or its designee, to FNMA and/or FHLMC, or insured by FHA, unless ~~this such~~ requirement is waived by the Director based upon a determination of financial suitability made by the Director after consideration of the net assets, servicing capacity, and experience of the potential Servicer over the past 12 months in residential mortgage servicing; and

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an entity, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or that deposits its funds in Illinois financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation.

"Servicing Agreement": The agreement between a Servicer and the Authority (except when the Authority is the Servicer) that sets forth the terms and conditions for the servicing of Mortgage Loans purchased by the Authority or its designee.

~~"Special Hazard Insurance": Insurance that provides protection with respect to loss on properties acquired in connection with the foreclosure of a defaulted Mortgage Loan by reason of damage to properties caused by certain hazards (including earthquakes, and to a limited extent, tidal waves and related water damage) not insured against under a standard hazard insurance policy required to be obtained by each Eligible Borrower, or a flood insurance policy if the property is in a federally designated flood area. The Authority may provide Special Hazard Insurance or its equivalent.~~

"Staff": The Director, Deputy Director, Assistant Director, any Managing Directors and employees of the Authority.

"State": The State of Illinois.

"Supplemental Mortgage Coverage": The coverage, if required by a Series Resolution, whether in the form of insurance, a letter of credit, a guarantee, pledged funds or other forms of coverage, of losses incurred from Mortgage Loan defaults under that Series Program. Supplemental Mortgage Coverage may supplement other mortgage insurance and may include any insurance or reserve fund funded by the Authority.

"VA": The United States Department of Veterans Affairs.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.104 Borrowing by the Authority**EMERGENCY**

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To the extent allowed by State or federal law and the Act, the Authority may borrow funds with which to purchase Mortgage Loans [or securities, or to facilitate the origination of Mortgage Loans](#) under the [ProgramsProgram](#).

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.107 Forms for the Program**[EMERGENCY](#)**

The Staff may prepare, use, supplement, and amend ~~such~~ forms, agreements, and other documentation as may be necessary to implement the [ProgramsProgram](#), ~~including, without limitation, a HomeBuilder Application, a Lender Application, a Notice of Acceptance, a Notice of Reservation of Funds, a Mortgage Purchase Agreement and a Servicing Agreement, all as~~ may be prescribed by the Director, Deputy Director, ~~or~~ Assistant Director [or Managing Director](#).

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.108 Fees and Charges of the Authority**[EMERGENCY](#)**

~~The Authority may establish and collect a Commitment Fee from each HomeBuilder submitting a HomeBuilder Application in an amount not greater than three percent (3%) of the HomeBuilder Reservation in such amount as the Authority may deem appropriate. The Authority shall return any Commitment Fee to any HomeBuilder with which it does not enter into a HomeBuilder Participation Agreement.~~ The Authority may establish ~~such other~~ charges, premiums and penalties as it may deem necessary to administer the [ProgramsProgram](#) after consideration of such factors as, ~~including~~ but not limited to, financing requirements of the [ProgramsProgram](#), preferences of bond rating agencies, earnings and arbitrage limitations established by federal or State law and other financial factors relevant to the [ProgramsProgram](#).

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.110 Amendment**[EMERGENCY](#)**

This Part may be amended or repealed by the Members from time to time in accordance with the

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Illinois Administrative Procedure Act and in asuch manner as they may determine consistent with the Act, the purposes of the ProgramsProgram and other applicable provisions of law. This Part shall not constitute or create any contractual rights.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

SUBPART B: LENDER APPLICATION PROCESS

**Section 260.201 Invitations to Participate in the ProgramsSell Mortgage Loans
EMERGENCY**

From time to time the Authority may send application materials to potential Lenders inviting them to submit to the Authority Lender Applications to participate in the Authority's Programsa Series Program. Lenders wishing to participate in such ProgramsSeries Program shall execute and return to the Authority the following documents: the Lender Application, the Mortgage Purchase Agreement (if not already executed), and the Servicing Agreement (if applicable and if not already executed). TheIn addition, the Lender Application shall contain, but not be limited to, the following:

- a) The unconditional agreement of the prospective Lender, effective upon acceptance of the Lender Application by the Authority, to sell to the Authority or its designee Mortgage Loans that comply with the terms of the Lender Application, the Mortgage Purchase Agreement, ~~and~~ the Notice of Acceptance and the requirements of the Programs;
- b) ~~The date by which the Lender Application must be submitted to the Authority to be considered for an Allocation;~~
- be) Provision for the prospective Lender to furnish such financial and other information as the Authority may reasonably require;
- cd) A pro forma copy of any letter of credit or pledge of deposits or assets the Authority may require as security for the Lender's performance of its obligations under the Series Program, ~~and~~
- e) ~~A statement of the maximum amount of fees and charges the Lender may charge a prospective Eligible Borrower in connection with a Mortgage Loan.~~

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(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.202 Security for Allocation of Net Proceeds (Repealed)
EMERGENCY

~~The Authority may require all prospective Lenders for a Series program to deposit, as part of their Lender Applications and as security for performance of their obligations under such Series Program, a letter of credit or cash deposit in an amount not to exceed 2% of such Lender's Allocation. The cash deposit or letter of credit shall be returned if the Lender does not participate in such Series Program. If the Lender does participate in such Series Program, the Authority may retain from the cash deposit, or draw on the letter of credit, as the case may be, an amount proportionate to the amount of the Lender's unused Allocation as of the termination of that Series Program.~~

(Source: Repealed by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.203 Allocation of Net Proceeds for Purchase of Mortgage Loans (Repealed)
EMERGENCY

~~The Authority may allocate Net Proceeds among prospective Lenders from which it has received timely Lender Applications. In making such Allocations, the Authority shall consider with respect to each prospective Lender, among other things, the financial condition of the prospective Lender; the aggregate amount of residential mortgage loans made in the State by the prospective Lender during the preceding 12-month period relative to the demand for such loans and the funds available to the prospective Lender to make such loans during such period; the Allocations requested by all prospective Lenders; the ability of the prospective Lender to act as a Servicer of Mortgage Loans; previous participation by the prospective Lender in the Authority's Series Programs; the desirability of achieving a reasonable geographic distribution of Net Proceeds throughout the State; and the existence of any local governmental mortgage purchase program. The Authority shall use its best efforts to allocate Net Proceeds to achieve the purposes set forth in Section 260.102 of this Part. Allocations of Net Proceeds by the Authority shall be conclusive, subject to adjustments permitted in Section 260.403(b) of this Part.~~

(Source: Repealed by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.204 Notice of Acceptance

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EMERGENCY

~~By~~The Authority, by Notice of Acceptance, ~~the Authority or its designee~~ may commit itself, subject to the conditions set forth in the Lender Application and the Mortgage Purchase Agreement, to purchase Mortgage Loans, as offered by a potential Lender, ~~or to allow the Lender's participation in the Authority's Programs in its Lender Application~~. Immediately after the Authority has issued its Notice of Acceptance to the Lender, the Authority shall execute a Mortgage Purchase Agreement (if not previously executed) with ~~the~~such Lender. ~~The aggregate principal amount of Mortgage Loans that the Authority agrees to purchase from any Lender shall not exceed, and may be less than, the Lender's requested Allocation in its Lender Application.~~ Upon receipt of the Notice of Acceptance, the Lender shall be obligated to originate Mortgage Loans in accordance with the terms of the Lender Application, the Notice of Acceptance and the Mortgage Purchase Agreement. ~~The obligation of the Authority to purchase any Mortgage Loan shall be subject to the issuance and sale of Bonds by the date set forth in the Lender Application in an amount sufficient to permit such purchase.~~

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.205 Commitments for Mortgage Loans**EMERGENCY**

Upon receipt of the Notice of Acceptance, the Lender shall issue commitments to Eligible Borrowers to make Mortgage Loans. The Lender may continue to issue firm commitments for the period set forth in the Notice of Acceptance. ~~Any~~All Mortgage Loans ~~to be purchased by the Authority or its designee~~ shall be purchased by the Authority ~~or its designee~~ by the date indicated in the Notice of Acceptance.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

SUBPART C: HOMEBUILDER APPLICATION PROCESS

Section 260.301 HomeBuilder Invitations (Repealed)**EMERGENCY**

~~From time to time, the Authority may send application materials to potential Homebuilders inviting them to submit to the Authority HomeBuilder Applications to participate in a Series Program. Homebuilders wishing to participate in that Series Program shall execute and return to~~

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~~the Authority the HomeBuilder Application and HomeBuilder Participation Agreement. In addition, the HomeBuilder Application shall contain among other things, the following:~~

- ~~a) A requirement that the HomeBuilder state the amount of funds that it wishes to reserve in its name for the financing of Qualified Dwellings constructed or to be constructed by such HomeBuilder in the Series Program;~~
- ~~b) The unconditional agreement of the prospective HomeBuilder, effective upon acceptance of the Home Builder Application by the Authority, to construct Qualified Dwellings for sale to Eligible Borrowers that comply with the terms of the Notice of Reservation of Funds and the HomeBuilder Participation Agreement;~~
- ~~c) The date by which the HomeBuilder Application must be submitted to the Authority;~~
- ~~d) Provision for the prospective HomeBuilder to provide such information about the HomeBuilder's construction activities during the period of 24 months prior to the date of its HomeBuilder Application and such other information as the Authority may reasonably require; and~~
- ~~e) A statement of the amount of any required Commitment Fee and requirement that such Commitment Fee be submitted in connection with the HomeBuilder Application.~~

(Source: Repealed by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.302 Reservation of Funds for Construction of Qualified Dwellings (Repealed)
EMERGENCY

~~The Authority may make Reservations for prospective HomeBuilders from which the Authority has received timely HomeBuilder Applications and Commitment Fees (if required). In making such Reservations, the Authority shall consider with respect to each such prospective HomeBuilder the number of residential homes and other structures constructed by the HomeBuilder in the State within the 24 month period prior to its HomeBuilder Application; the Reservations requested by all prospective HomeBuilders for the Series Program; the participation of the HomeBuilder in the Authority's previous Series Programs; and the desirability of achieving a reasonable geographic distribution of Net Proceeds for newly~~

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~~constructed residences throughout the State. Reservations shall be conclusive, subject to the adjustments permitted in Section 260.305 of this Part.~~

(Source: Repealed by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.303 Notice of Reservation of Funds (Repealed)
EMERGENCY

~~The Authority may commit itself by Notice of Reservation of Funds, subject to the terms and conditions set forth in the HomeBuilder Application and the HomeBuilder Participation Agreement, to make a Reservation for a prospective HomeBuilder for the financing of Qualified Dwellings constructed or to be constructed for Eligible Borrowers under a Series Program. Contemporaneously with the issuance of the Notice of Reservation of Funds to the HomeBuilder, the Authority shall execute a HomeBuilder Participation Agreement with that HomeBuilder. The amount of the Reservation for the HomeBuilder shall not exceed, and may be less than, such HomeBuilder's requested Reservation in its HomeBuilder Application. Upon receipt of the Notice of Reservation of Funds, the HomeBuilder shall be obligated to construct Qualified Dwellings in accordance with the terms of the HomeBuilder Application and the HomeBuilder Participation Agreement. The obligation of the Authority to make Reservations to HomeBuilders shall be subject to the issuance and sale of Bonds by the date set forth in the HomeBuilder Application in an amount sufficient to permit such Reservations.~~

(Source: Repealed by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.304 Real Estate Purchase Contracts (Repealed)
EMERGENCY

~~Upon receipt of the Notice of Reservation of Funds, the HomeBuilder shall construct Qualified Dwellings for sale to Eligible Borrowers. The HomeBuilder shall enter into standard residential purchase contracts with prospective Eligible Borrowers and refer such Eligible Borrowers to Lenders participating in the Series Program to obtain Mortgage Loans in connection with the purchase of Qualified Dwellings. All Qualified Dwellings shall be constructed and sold to Eligible Borrowers by the date indicated in the HomeBuilder Participation Agreement.~~

(Source: Repealed by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

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Section 260.305 Transfer of Reserved Funds (Repealed)
EMERGENCY

~~If a HomeBuilder fails or is unable to construct and sell Qualified Dwellings in the amount of its Reservation on the terms and conditions, and within the time period, set forth in the HomeBuilder Participation Agreement, the Authority may, at the request of the HomeBuilder, reallocate all or a part of the unused portion of the HomeBuilder's Reservation to other HomeBuilders; redeem all or part of the Bonds issued with respect to such unused portion of the Reservation, but only if permitted by the Series Resolution authorizing the issuance of the Bonds; or undertake a combination of the above.~~

(Source: Repealed by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

SUBPART D: PURCHASE OF MORTGAGE LOANS

Section 260.401 Mortgage Loans
EMERGENCY

Each Mortgage Loan to be purchased under the ~~Programs~~Program shall comply with the terms of the Lender Application, ~~the HomeBuilder Application (if applicable)~~, the Notice of Acceptance and the Mortgage Purchase Agreement, and shall specifically comply with the following requirements, among others:

- a) The original principal amount of each Mortgage Loan ~~shall fall below the maximum price limits as set by the Authority from time to time, unless such Mortgage Loan is the subject of insurance or guaranty by the FHA, the VA or the FmHA, shall not exceed 100% of the Property Value.~~ Each Mortgage Loan that has a loan-to-Property Value ratio in excess of 80% at the time of origination shall:
 - (1) be insured by a private mortgage insurer licensed to do business in the State and qualified to insure single family mortgages purchased by the FHLMC, ~~FNMA~~ or successor federal ~~agencies~~agency to the extent, if any, required, so that the uninsured portion of ~~thesuch~~ Mortgage Loan shall not exceed ~~67%~~75% of the Property Value; or
 - (2) be subject to insurance or guaranty by the FHA or the VA or any other agency or instrumentality of the United States of America having similar

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powers to insure or guarantee mortgage loans.

- b) Each Mortgage Loan, if required by the Authority, shall be subject to Supplemental Mortgage Coverage.
- cb) Each Mortgage Loan to be purchased by the Authority or its designee shall be secured by a Mortgage on a Qualified Dwelling and shall also meet the applicable terms and conditions set forth in this Part, ~~the HomeBuilder Application (if applicable)~~; the Lender Application, the Notice of Acceptance and the Mortgage Purchase Agreement. Lenders shall sell to the Authority or its designee, and the Authority or its designee shall purchase, only Mortgage Loans made to Eligible Borrowers.
- de) Each Mortgage securing a Mortgage Loan to be purchased by the Authority shall:
- 1) be executed on a form approved by the Authority;
 - 2) be a valid first mortgage lien on a Qualified Dwelling;
 - 3) be consistent with Illinois law; and
 - 4) conform with the requirements prescribed by the Authority and any applicable insurer.
- ed) Each Mortgage Loan to be purchased by the Authority or its designee shall be ~~non~~-assumable and ~~non~~-assignable, unless otherwise required by Section 103 of the Code, any other applicable sections of the Code or any other applicable State or federal law as may be enacted from time to time, and shall contain a provision giving the Authority or its designee the right to accelerate the maturity of the Mortgage Loan upon sale or lease of the Qualified Dwelling, unless otherwise allowed or required by applicable State or federal law.
- fe) The purchase price of each Qualified Dwelling that is the subject of a Mortgage Loan to be purchased by the Authority or its designee under the ~~Programs~~Program shall fall below the maximum price limits set by the Authority from time to time not exceed 90% of the average area purchase price applicable to the areas in which such Qualified Dwelling is located (except that in the case of Targeted Area Residences the purchase price shall not exceed 110% of the average area purchase price), except to the extent permitted by the Code. ~~Average area~~

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~~purchase price shall be established pursuant to procedures prescribed by the Code.~~

- gf) The Authority or its designee shall not be required to purchase any Mortgage Loan if, on the date of purchase, the obligor of the Mortgage Loan is delinquent in the payment of any installment of principal, interest or other amounts due under the terms of thesueh Mortgage Loan.
- hg) The Authority or its designee may foreclose Mortgages held as security for Mortgage Loans purchased under this Part that are in default according to their terms, or reassign thesueh Mortgages to the Lender in accordance with the terms of the Mortgage Purchase Agreement. The Authority or its designee may take title in its name upon foreclosure and to subsequently convey title to thesueh property to any ~~qualified insurer of the mortgage or any bona fide~~ purchaser of the property.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.402 Yield on Mortgage Loans**EMERGENCY**

In no event shall the yield on Mortgage Loans sold to the Authority or its designee exceed the maximum permitted by application of the provisions of ~~section~~Section 143 of the Code.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.403 Terms and Conditions of the Purchase of Mortgage Loans**EMERGENCY**

- a) The Authority or its designee shall purchase Mortgage Loans on the terms and conditions and in the manner prescribed in the Mortgage Purchase Agreement. The Mortgage Purchase Agreement shall contain such warranties of the Lender in connection with the Mortgage Loans to be sold under the Mortgage Purchase Agreement~~thereunder~~ as the Authority or its designee shall require, ~~which These warranties~~ shall include, ~~but are not limited to~~among others, the following:

- 1) The mortgagor is an Eligible Borrower;

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- 2) The purchase price of the Qualified Dwelling subject to the Mortgage Loan does not exceed any maximum purchase price limitations established by the Authority;
- 3) The Mortgage Loan is evidenced by a properly executed promissory note made payable or assigned to the order of the Lender, endorsed by the Lender to the Authority or its designee and secured by a Mortgage on the Qualified Dwelling; both the note and the Mortgage are the legal, valid, and binding obligations of the makers and mortgagors ~~thereof~~ and are enforceable in accordance with their terms, unless except only as such enforcement ~~ismay be~~ limited by laws affecting the enforcement of creditors' rights generally, ~~if and~~ all parties to each Mortgage Loan had full legal capacity to execute all Mortgage Loan documents at the time of execution;
- 4) The Mortgage, the Uniform Commercial Code Form 1 and Form 2 financing statements, if any, and any other document required to be filed in a public office to perfect the mortgage lien against third parties have been duly and timely filed, registered, or recorded by the Lender in the proper public office in order to give constructive notice of them to all subsequent purchasers or encumbrancers;
- 5) The Lender, being the sole owner and holder of the Mortgage Loan, has full right to sell and assign the Mortgage Loan to the Authority or its designee and ~~thatsueh~~ assignment conveys a good and marketable mortgagee's title to the Authority or its designee free and clear of all liens and encumbrances and subject only to real property taxes and assessments not yet due and encumbrances customarily accepted in accordance with applicable title standards and disclosed to the Authority or its designee prior to purchase of the Mortgage Loan;
- 6) The Mortgage creates a valid and existing first mortgage lien on the Qualified Dwelling to secure the Mortgage Loan, unless otherwise authorized by the Authority or its designee; the term "first mortgage lien" means ~~such~~ classes of first liens ~~as are~~ commonly given to secure loans on real estate under the laws of the State;
- 7) The Lender has not modified in any respect and, has not satisfied, canceled, subordinated, or compromised in whole or in part the Mortgage

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Loan indebtedness, and has not released the mortgaged property in whole or in part from the lien of the indebtedness evidenced by the note and secured by the Mortgage; and the terms, covenants, and conditions of the note evidencing the Mortgage Loan and the Mortgage securing the Mortgage Loan shall not have ~~not~~ been waived, altered, or modified in any respect that would materially affect the validity or enforceability of the Mortgage Loan or the security of the lien of the Mortgage;

- 8) The real property securing the Mortgage Loan is a Qualified Dwelling;
- 9) The Qualified Dwelling is covered by a valid and existing policy of homeowner's property and casualty~~hazard~~ insurance meeting the requirements of the Authority or its designee;
- 10) The Lender has complied as follows:
 - A) as to each FHA-insured Mortgage Loan, with the National Housing Act (12 ~~USCU.S.C. Section~~ 1701 et seq.) as amended and supplemented, all rules and regulations issued under the National Housing Act~~thereunder~~ and all administrative publications. The FHA insurance shall be in full force and effect and, upon purchase by the Authority or its designee of the Mortgage Loan, shall inure to the benefit of the Authority or its designee;
 - B) as to each Mortgage Loan guaranteed by the VA or FmHA, with the Servicemen's Readjustment Act (38 ~~USCU.S.C. Section~~ 1803 et seq.), the Consolidated Farm and Rural Development Act (7 ~~USCU.S.C. Section~~ 1921 et seq.), Title V of the Housing Act of 1949 (42 ~~USCU.S.C. Sections~~ 1471-1482) or other applicable federal law, as amended and supplemented, all rules and regulations issued under those laws~~thereunder~~ and all administrative publications. Any such guaranty shall be in full force and effect and, upon purchase by the Authority or its designee of the Mortgage Loan, shall inure to the benefit of the Authority or its designee; and
 - C) as to each Mortgage Loan insured by a private mortgage insurance company, with all rules and requirements of that~~such~~ company. Any such insurance shall be in full force and effect and, upon

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purchase by the Authority or its designee of the Mortgage Loan, shall inure to the benefit of the Authority or its designee;

- 11) The Mortgage Loan is covered by a fully paid mortgagee's title insurance policy in such form as the Authority or its designee may require and under which the Authority or its designee is a loss payee; and
- 12) To the best of Lender's information, knowledge and belief, no condition exists that would prohibit the purchase of the Mortgage Loan by the Authority or its designee under all applicable rules, regulations and contractual provisions.

~~b) If a Lender fails to deliver Mortgage Loans to the Authority in the amount, on the terms and conditions, and within the time period set forth in the Mortgage Purchase Agreement, the Authority may, if it so chooses and in its sole discretion, reallocate all or part of the unused portion of that Lender's Allocation to other Lenders; redeem all or part of the applicable Bonds issued with respect to such unused portion of the commitment, but only if permitted by the Series Resolution of the Authority authorizing issuance of the Bonds; or undertake a combination of the above. The Mortgage Purchase Agreement may provide for liquidated damages, extension fees, and forfeiture of all or a part of any letter of credit or cash deposit deposited with the Authority by the Lender if the Authority makes any reallocation pursuant to this subsection.~~

be) The Mortgage Purchase Agreement shall provide that the Authority shall have the right to require the Lender to repurchase Mortgage Loans sold to the Authority or its designee by the Lender if the Director, Deputy Director, ~~or~~ Assistant Director or Managing Director determines that the Lender has failed to comply with the requirements of either this Part or its contracts and agreements with the Authority under the Program.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.405 Targeted Area Residences**EMERGENCY**

The Authority or its designee shall comply with the requirements of ~~section~~Section 143 of the Code in connection with the purchase of Mortgage Loans on targeted area residences~~Targeted~~

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Area Residences.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.407 Special Hazard Insurance (Repealed)
EMERGENCY

~~If required by the applicable Series Resolution, the Authority shall obtain Special Hazard Insurance for a Series Program in the amount required by that Series Resolution.~~

(Source: Repealed by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

SUBPART E: ADMINISTRATIVE RULES

Section 260.501 Restrictions on Return Realized by Lenders
EMERGENCY

The Authority shall establish the maximum income that may be realized by any Lender and by any agent of any Lender from Mortgage Loans, including any fees, premiums, bonuses and, points charged by the Lender or the Lender's agent in connection with the making of Mortgage Loans. ~~The Such~~ maximum income shall be set at such amounts as the Authority finds reasonably necessary to induce participation in the ~~Programs~~ Program by Lenders in order to accomplish the purposes of the Act, or to ensure compliance with arbitrage and income limitations of ~~section~~ Section 143 of the Code.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.502 Servicing of Mortgage Loans
EMERGENCY

The Authority shall cause all Mortgage Loans purchased by the Authority to be serviced by a Servicer pursuant to the Servicing Agreement. ~~The Such~~ Servicer may be the Authority, ~~or~~ the Lender from which ~~thesuch~~ Mortgage Loans are purchased, or any other party approved by the Authority.

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(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.503 Purchase of Authority Bonds (Repealed)
EMERGENCY

~~No Lender or Eligible Borrower, including any "related person," as defined in Section 144(a)(3) of the Code, pursuant to any arrangement, formal or informal, direct or indirect, shall agree to purchase the Bonds or other obligations of the Authority in an amount related to the aggregate principal amount of the Mortgage Loans to be sold by or made to such Lender, Eligible Borrower or related person.~~

(Source: Repealed by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

Section 260.506 Termination
EMERGENCY

The Authority or designee shall retain the right to terminate its obligation to purchase Mortgage Loans associated with any particular issue of Bonds under the ProgramsProgram, subject to applicable State law and to its existing contractual obligations, including contractual obligations arising under ~~a HomeBuilder Application~~, a Lender Application, a Notice of Reservation of Funds, a Notice of Acceptance, a Mortgage Purchase Agreement and a Servicing Agreement.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 1512, effective January 7, 2009, for a maximum of 150 days)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3)

<u>Section Numbers:</u>	<u>Peremptory Action:</u>
148.440	New Section
148.442	New Section
148.444	New Section
148.446	New Section
148.448	New Section
148.450	New Section
148.452	New Section
148.454	New Section
148.456	New Section
148.458	New Section
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires this Peremptory Rulemaking: These changes are being made to conform with federally-approved amendments to the Medicaid State plan and pursuant to Illinois Public Act 95-0859.
- 5) Statutory Authority: Implementing Sections 12-4.5 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.5 through 12-4.6 and 12-13] and Public Act 95-0859
- 6) Effective Date: December 30, 2008
- 7) A Complete Description of the Subjects and Issues Involved: The Department is implementing a revised Hospital Assessment program, beginning July 1, 2008, pursuant to Public Act 95-0859. A principal purpose of the program is to provide funding for Medicaid reimbursable hospital services provided on and after that date. These peremptory amendments establish new payment methodologies pursuant to federally approved amendments to the Medicaid State plan. The Department has received federal approval for these changes, and this peremptory rule is being filed pursuant to 5 ILCS 100/5-50. The estimated annual impact of this peremptory rulemaking is approximately \$1.5 billion. These expenditures will be eligible for federal Medicaid matching funds.
- 8) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 9) Date Filed with the Index Department: December 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 rulemaking is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.
- 12) Are there any other rulemakings pending on this Part? No
- 13) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 14) Information and questions regarding these preemptory amendments shall be directed to:

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

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 148

HOSPITAL SERVICES

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Section

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148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services

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Section

148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.85	Supplemental Tertiary Care Adjustment Payments
148.90	Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
148.95	Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments
148.100	Outpatient Rural Hospital Adjustment Payments
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148.105	Psychiatric Adjustment Payments
148.110	Psychiatric Base Rate Adjustment Payments
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148.122	Medicaid Percentage Adjustments
148.126	Safety Net Adjustment Payments
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148.140	Hospital Outpatient and Clinic Services

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- 148.150 Public Law 103-66 Requirements
- 148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
- 148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
- 148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions
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- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates
- 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments (CHAP)
- 148.296 Tertiary Care Adjustment Payments
- 148.297 Pediatric Outpatient Adjustment Payments
- 148.298 Pediatric Inpatient Adjustment Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives
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- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services

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148.380	Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.390	Hearings
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148.402	Medicaid Eligibility Payments (Repealed)
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148.416	Crossover Percentage Adjustment Payments (Repealed)
148.418	Long Term Acute Care Hospital Adjustment Payments (Repealed)
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SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Section

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148.610	Scope of the Program
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148.TABLE B	Bureau of Labor Statistics Equivalence
148.TABLE C	List of Metropolitan Counties by SMSA Definition

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150

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days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18,

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2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg.

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383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 1997, effective January 15, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 5596, effective April 1, 2007; amended at 31 Ill. Reg. 8123, effective May 30, 2007; amended at 31 Ill. Reg. 8508, effective June 1, 2007; emergency amendment at 31 Ill. Reg. 10137, effective July 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11688, effective August 1, 2007; amended at 31 Ill. Reg. 14792, effective October 22, 2007; amended at 32 Ill. Reg. 312, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 518, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 2993, effective February 16, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8718, effective May 29, 2008; amended at 32 Ill. Reg. 9945, effective June 26, 2008; emergency amendment at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 33 Ill. Reg. 501, effective December 30, 2008; peremptory amendment at 33 Ill. Reg. 1538, effective December 30, 2008.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.440 High Volume Adjustment Payments

- a) Qualifying criteria. With the exception of a large public hospital, a High Volume Adjustment payment shall be made to each general acute care hospital that provided and was paid for more than 20,500 Medicaid inpatient days.
- b) Payment. Qualifying hospitals shall receive an annual payment that is the product of the hospital's Medicaid inpatient days and:
 - 1) \$350, for a hospital with a case mix index greater than or equal to the 85th percentile for all qualifying hospitals.
 - 2) \$100, for any other hospital.

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(Source: Added by peremptory rulemaking at 33 Ill. Reg. 1538, effective December 30, 2008)

Section 148.442 Inpatient Services Adjustment Payments

- a) Qualifying criteria. With the exception of a large public hospital, all Illinois hospitals qualify for the Inpatient Services Adjustment payment.
- b) Payment. A hospital shall receive an annual payment that is the sum of the following amounts for which it qualifies:
 - 1) A general acute care hospital shall receive an annual amount that is equal to 40% of its base inpatient payments.
 - 2) A freestanding specialty hospital shall receive an annual amount that is equal to 60% of its base inpatient payments.
 - 3) A children's hospital shall receive an annual amount that is equal to 20% of its base inpatient payments.
 - 4) A children's hospital shall receive an annual amount that is equal to 20% of its payments for inpatient psychiatric services provided during State fiscal year 2005.
 - 5) An Illinois hospital licensed by the Illinois Department of Public Health (IDPH) as a psychiatric or rehabilitation hospital shall receive an annual amount that is equal to the product of the following factors:
 - A) Medicaid inpatient days.
 - B) \$1,000.
 - C) The positive percentage of change in the hospital's MIUR between 2005 and 2007.
 - 6) A children's hospital shall receive an annual amount that is the product of the annual payment described in Section 148.298, multiplied by:
 - A) 2.50, for a hospital that is a freestanding children's hospital

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B) 1.00, for any other hospital.

(Source: Added by peremptory rulemaking at 33 Ill. Reg. 1538, effective December 30, 2008)

Section 148.444 Capital Needs Payments

- a) Qualifying criteria. With the exception of a large public hospital, a general acute care hospital with a 2007 MIUR of 10% or greater qualifies for the Capital Needs payment.
- b) Payment. Qualifying hospitals shall receive an annual payment that is the product of the hospital's Medicaid inpatient days and:
 - 1) The difference between the hospital's capital cost per diem and 75th percentile for all hospitals, for hospitals with a 2007 MIUR of 0.3694 or greater with a capital cost per diem that is less than the 75th percentile for all hospitals.
 - 2) The difference between the hospital's capital cost per diem and 60th percentile for all hospital, for any other hospital

(Source: Added by peremptory rulemaking at 33 Ill. Reg. 1538, effective December 30, 2008)

Section 148.446 Obstetrical Care Payments

- a) Qualifying criteria. With the exception of a large public hospital, a general acute care hospital qualifies for the Obstetrical Care payment if the hospital is one of the following:
 - 1) A rural hospital, as defined in Section 148.25(g)(3), with a Medicaid obstetrical rate greater than 15%.
 - 2) Classified, on December 31, 2006, as a perinatal level III hospital by IDPH and that had a case mix index equal to or greater than the 45th percentile of such perinatal level III hospitals.

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- 3) Classified, on December 31, 2006, as a perinatal level II or II+ hospital by IDPH and that had a case mix index equal to or greater than the 35th percentile, of such perinatal level II and II+ hospitals combined.
- b) Payment. Qualifying hospitals shall receive an annual payment that is the product of the hospital's Medicaid obstetrical days and:
 - 1) \$1,500, for a hospital qualifying under subsection (a)(1) of this Section.
 - 2) \$1,350, for a hospital qualifying under subsection (a)(2) of this Section.
 - 3) \$900, for a hospital qualifying under subsection (a)(3) of this Section.

(Source: Added by peremptory rulemaking at 33 Ill. Reg. 1538, effective December 30, 2008)

Section 148.448 Trauma Care Payments

- a) Qualifying criteria. With the exception of a large public hospital, a hospital qualifies for this payment if the hospital is one of the following:
 - 1) A general acute care hospital that, as of July 1, 2007, was designated by IDPH as a trauma center.
 - 2) A children's hospital, located in a contiguous state, that has been designated a trauma hospital by that State providing more than 8,000 Illinois Medicaid days.
- b) Payment. A hospital shall receive an annual payment that is the sum of the following amounts for which it qualifies:
 - 1) The product of the hospital's Medicaid inpatient general acute care days and \$400, for a general acute care hospital designated as a Level II trauma center as identified in 89 Ill. Adm. Code 148.295(a)(3) and (a)(4).
 - 2) The product of the amount of the State fiscal year 2005 Medicaid capital payments and the factor of 3.75, for a general acute care hospital designated as a trauma center as identified in 89 Ill. Adm. Code 148.295(a).

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- 3) The product of the hospital's Medicaid general acute care inpatient days and \$235, for a hospital that qualifies under (a)(2) of this Section

(Source: Added by peremptory rulemaking at 33 Ill. Reg. 1538, effective December 30, 2008)

Section 148.450 Supplemental Tertiary Care Payments

- a) Qualifying criteria. An Illinois hospital that qualified in State fiscal year 2007 for a payment described in Section 148.296.
- b) Payment. A hospital shall receive an annual payment that is equal to the amount for which it qualified in State fiscal year 2007 in Section 148.296.

(Source: Added by peremptory rulemaking at 33 Ill. Reg. 1538, effective December 30, 2008)

Section 148.452 Crossover Care Payments

- a) Qualifying criteria. With the exception of a large public hospital, a general acute care hospital that had a ratio of crossover days to total medical assistance inpatient days (utilizing information from 2005 Illinois medical assistance paid claims) greater than 50% and the hospital's case mix index is equal to or greater than the 65th percentile of all case mix indices.
- b) Payment. A qualifying hospital shall receive an annual payment that is the product of \$1,125 and the inpatient days provided to individuals eligible for Medicaid, as recorded in the Department's paid claims data.

(Source: Added by peremptory rulemaking at 33 Ill. Reg. 1538, effective December 30, 2008)

Section 148.454 Magnet Hospital Payments

- a) Qualifying criteria. With the exception of a large public hospital, a general acute care hospital or a freestanding children's hospital qualifies for Magnet Hospital payment if it meets both of the following criteria:

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- 1) Was, as of February 1, 2008, designated as a "magnet hospital" by the American Nurses' Credentialing Center.
- 2) A case mix index that is equal to or greater than the 75th percentile for all hospitals.
- b) Payment. A qualifying hospital shall receive an annual payment that is the product of the hospital's Medicaid inpatient days, eligibility growth factor, and:
 - 1) \$450, for a hospital that has a case mix index equal to or greater than the 75th percentile of all hospitals and an eligibility growth factor that is greater than the mean eligibility growth factor for counties in which the hospital is located.
 - 2) \$225, for a hospital that has an eligibility growth factor that is less than or equal to the mean eligibility growth factor for counties in which the hospital is located.

(Source: Added by peremptory rulemaking at 33 Ill. Reg. 1538, effective December 30, 2008)

Section 148.456 Ambulatory Procedure Listing Increase Payments

- a) Qualifying criteria. With the exception of a large public hospital, as defined in Section 148.458(a) Ambulatory Procedure Listing Increase payment shall be shall be made to each Illinois hospital.
- b) Payment. Qualifying hospitals shall receive an annual payment that is the sum of:
 - 1) For a hospital that is licensed by the Department of Public Health as a psychiatric specialty hospital, the product of:
 - A) The hospital's payments for type B psychiatric clinic services provided during State fiscal year 2005 that reimbursed through methodologies described in subsection 148.140(b)(1)(e) and,
 - B) 3.25.
 - 2) For all other hospitals:

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- A) The hospital's payments for services provided during State fiscal year 2005 that reimbursed through methodologies described in Sections 148.140(b)(1)(A) through 148.140(b)(1)(D) and,
- B) 2.20.

(Source: Added by preemptory rulemaking at 33 Ill. Reg. 1538, effective December 30, 2008)

Section 148.458 General Provisions

Unless otherwise indicated, the following apply to Sections 148.440 through 148.456.

a) Definitions.

"Base inpatient payments" means, for a given hospital, the sum of payments made using the rates defined in Section 148(b)(1) for services provided during State fiscal year 2005 and adjudicated by the Department through March 23, 2007.

"Capital cost per diem" means, for a given hospital, the quotient of (i) the total capital costs determined using the most recent 2005 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on December 31, 2006, divided by (ii) the total inpatient days from the same cost report to calculate a capital cost per day. The resulting capital cost per day is inflated to the midpoint of State fiscal year 2009 utilizing the national hospital market price proxies hospital cost index. If a hospital's 2005 Medicare cost report is not contained in the Healthcare Cost Report Information System, the Department shall use the data reported on the hospital's 2005 Medicaid cost report.

"Case mix index" means, for a given hospital, the quotient resulting from dividing (i) the sum of the all diagnosis related grouping relative weighting factors in effect on January 1, 2005, for all category of service 20 admissions for State fiscal year 2005, excluding Medicare crossover admissions and transplant admissions reimbursed under 89 Ill. Adm. Code 148.82, by (ii) the total number of category of service 20 admissions for State fiscal year 2005, excluding Medicare crossover admissions and transplant admissions reimbursed under 89 Ill. Adm. Code 148.82.

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"Children's hospital" means a hospital as described in Section 149.50(c)(3).

"Eligibility growth factor" means the percentage by which the number of Medicaid recipients in the county increased from State fiscal year 1998 to State fiscal year 2005.

"Freestanding children's hospital" means an Illinois Children's hospital that is licensed by the Illinois Department of Public Health as a pediatric hospital.

"Freestanding specialty hospital" means an Illinois hospital that is neither a general acute care hospital nor a large public hospital nor a freestanding children's hospital.

"General acute care hospital" means an Illinois hospital that operates under a general license (i.e., is not licensed by the Illinois Department of Public Health as a psychiatric, pediatric, rehabilitation, or tuberculosis specialty hospital) and is not a long term stay hospital, as described in Section 149.50(c)(4).

"Large public hospital" means a county-owned hospital, as described in Section 148.25(b)(1)(a), a hospital organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(b), or a hospital owned or operated by a State agency, as described in Section 148.40(a)(7).

"Medicaid inpatient days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), for admissions occurring during State fiscal year 2005 as adjudicated by the Department through March 23, 2007.

"Medicaid obstetrical days" means, for a given hospital, the sum of days of inpatient hospital service provided to Illinois recipients of medical assistance under Title XIX of the federal Social Security Act, assigned a diagnosis related group code of 370 through 375, excluding days for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), for admissions occurring during State fiscal year 2005, adjudicated by the Department through March 23, 2007.

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"Medicaid obstetrical rate" means, for a given hospital, a fraction, the numerator of which is the hospital's Medicaid obstetrical days and the denominator is the hospital's Medicaid inpatient days.

"Medicare crossover rate" means, for a given hospital, a fraction, the numerator of which is the number patient days provided to individuals eligible for both Medicare under Title XVIII and Medicaid under Title XIX of the federal Social Security Act and the denominator of which is the number patient days provided to individuals eligible for medical programs administered by the Department, both as recorded in the Department's paid claims data.

"MIUR" means Medicaid inpatient utilization rate as defined in Section 148.120(K)(4).

b) Payment.

- 1) The annual amount of each payment for which a hospital qualifies shall be made in 12 equal installments on or before the seventh State business day of each month. If a hospital closes or ceases to do business, payments will be prorated based on the number of days the hospital was open during the State fiscal year in which the hospital closed or ceased to do business.
- 2) Monthly payments may be combined into a single payment to a qualifying hospital. Such a payment will represent the total monthly payment a qualifying hospital receives pursuant to Sections 148.440 through 148.456.

c) Rate reviews.

- 1) A hospital shall be notified in writing of the results of the payment determination pursuant to Sections 148.440 through 148.456.
- 2) Hospitals shall have a right to appeal the calculation of, or their ineligibility for, payment if the hospital believes that the Department has made a technical error. The appeal must be submitted in writing to the Department and must be received or postmarked within 30 days after the date of the Department's notice to the hospital of its qualification for the payment amounts, or a letter of notification that the hospital does not qualify for payments. Such a request must include a clear explanation of

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[the reason for the appeal and documentation that supports the desired correction. The Department shall notify the hospital of the results of the review within 30 days after receipt of the hospital's request for review.](#)

(Source: Added by peremptory rulemaking at 33 Ill. Reg. 1538, effective December 30, 2008)

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 January 5, 2008 through January 12, 2009 and have been scheduled for review by the Committee at its February 18, 2009 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>
2/18/09	<u>Department of Healthcare and Family Services, Medical Payment (89 Ill. Adm. Code 140)</u>	8/29/08 32 Ill. Reg. 14003	2/18/09
2/18/09	<u>Department of Healthcare and Family Services, Practice in Administrative Hearings (89 Ill. Adm. Code 104)</u>	8/22/08 32 Ill. Reg. 13751	2/18/09
2/18/09	<u>Department of Revenue, Retailers' Occupation Tax (86 Ill. Adm. Code 130)</u>	11/14/08 32 Ill. Reg. 17654	2/18/09
2/18/09	<u>State Fire Marshal, Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 Ill. Adm. Code 170)</u>	9/19/08 32 Ill. Reg. 14924	2/18/09
2/20/09	<u>State Board of Education, Early Childhood Block Grant (23 Ill. Adm. Code 235)</u>	10/3/08 32 Ill. Reg. 16236	2/18/09

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 Fourth 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:

Claims for Credit	Hotel Operators' Tax
Computer Software	Local Taxes
Construction Contractors	Manufacturer's Purchase Credit
Electricity Excise Tax	Manufacturing Machinery & Equipment
Enterprise Zones	Medical Appliances
Exempt Organizations	Miscellaneous
Farm Machinery & Equipment	Motor Fuel Tax
Food	Motor Vehicles
Food, Drugs & Medical Appliances	Nexus
Gross Receipts	

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Rolling Stock Exemption
Sale at Retail
Sale for Resale
Sale of Service

Service Occupation Tax
Use Tax

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.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
Telephone: (217) 782-2844

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CLAIMS FOR CREDIT

ST 08-0161-GIL 11/24/2008 This letter discusses claims for credit. See 86 Ill. Adm. Code Section 130.1501.

COMPUTER SOFTWARE

ST 08-0163-GIL 11/24/2008 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 08-0165-GIL 11/25/2008 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 08-0168-GIL 12/08/2008 Charges for updates of canned software are fully taxable as sales of software under Section 130.1935(b) of the Department's rules. If a maintenance agreement provides for updates of canned software (other than "patches" or "bug fixes"), and the charges for those updates are not separately stated and taxed, then the whole agreement is taxable as a sale of canned software. See 86 Ill. Adm. Code 130.1935.

ST 08-0174-GIL 12/10/2008 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 08-0175-GIL 12/10/2008 This letter discusses sales of software. See 86 Ill. Adm. Code 130.1935.

ST 08-0179-GIL 12/10/2008 If transactions for the licensing of computer software meet all of the criteria provided in subsection (a)(1) of Section 130.1935, neither the transfer of the software nor the subsequent software updates will be subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1935.

ST 08-0191-GIL 12/16/2008 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

DEPARTMENT OF REVENUE

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retail sale subject to Retailers' Occupation and Use Tax. See 86 Ill. Adm. Code 130.1935.

ST 08-0197-GIL 12/19/2008 This letter discusses sales of software. See 86 Ill. Adm. Code 130.1935.

CONSTRUCTION CONTRACTORS

ST 08-0147-GIL 10/23/2008 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 08-0154-GIL 11/18/2008 Construction contracts for the improvement of real estate consisting of engineering, installation, and maintenance of voice, data, video, security, and all telecommunication systems incur Use Tax, rather than Retailers' Occupation Tax, on these items if they are sold at one specified contract price. See 35 ILCS 120/1 and 86 Ill. Adm. Code 130.1940(c)(3).

ST 08-0178-GIL 12/10/2008 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 130.2075.

ELECTRICITY EXCISE TAX

ST 08-0192-GIL 12/17/2008 The purchase price on which a self assessing purchaser must pay tax under the Electricity Excise Tax Law includes charges for transmission or any other service related to the sale or delivery of the electricity. See 35 ILCS 640/2-4(a) and 86 Ill. Adm. Code 511.110(c).

ENTERPRISE ZONES

ST 08-0006-PLR 10/30/2008 This letter rescinds Private Letter Ruling ST 06-0003-PLR. A Private Letter Ruling will not be issued concerning the exemption

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provided for building materials that will be incorporated into real estate located in an enterprise zone under 86 Ill. Adm. Code 130.1951 unless the taxpayer supplies the Department with a copy of the Certificate of Eligibility for Sales Tax Exemption issued by the administrator of the enterprise zone or zones in which the project is located. See 86 Ill. Adm. Code 130.1951.

EXEMPT ORGANIZATIONS

- ST 08-0144-GIL 10/16/2008 Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See 86 Ill. Adm. Code 130.2007.
- ST 08-0151-GIL 11/18/2008 Organizations that the Department of Revenue has determined to be exclusively religious, educational, or charitable and have been issued an exemption identification number (an "E" number) 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.
- ST 08-0158-GIL 11/20/2008 This letter discusses the exemption for computer or communications equipment leased to an exempt hospital. See 86 Ill. Adm. Code 150.331

FARM MACHINERY & EQUIPMENT

- ST 08-0148-GIL 10/23/2008 The Farm Machinery and Equipment exemption is not available to sales of ordinary building materials. See 86 Ill. Adm. Code 130.305.
- ST 08-0189-GIL 12/16/2008 The sale of certain types of tangible personal property used in production agriculture is not subject to Illinois Retailers' Occupation Tax and Use Tax. See 35 ILCS 120/2-5(2).

FOOD

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ST 08-0150-GIL 10/31/2008 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)

FOOD, DRUGS & MEDICAL APPLIANCES

ST 08-0145-GIL 10/16/2008 This letter responds to questions about the rate of tax for blood glucose test strips and lancets. See 86 Ill. Admin. Code 130.310.

ST 08-0196-GIL 12/18/2008 This letter discusses the tax rate imposed on dietary supplements. See 86 Ill. Adm. Code 130.310.

GROSS RECEIPTS

ST 08-0153-GIL 11/18/2008 A caterer incurs Retailers' Occupation Tax liability from his catering service without any deductions for his costs of doing business. See 86 Ill. Adm. Code 130.410 and 130.2145.

ST 08-0156-GIL 11/18/2008 This letter discusses "shipping and handling" charges. See 86 Ill. Adm. Code 130.415.

ST 08-0183-GIL 12/12/2008 Persons that are engaged in the business of selling meals to purchasers for use or consumption incur Retailers' Occupation Tax liability on their gross receipts from such sales. See the Department's regulation entitled "Vendors of Meals" at 86 Ill. Adm. Code 130.2145.

HOTEL OPERATORS' TAX

ST 08-0149-GIL 10/27/2008 This letter explains the application of the Hotel Operators' Occupation Tax when rentals are made to persons holding "E" numbers.

ST 08-0167-GIL 12/05/2008 This letter discusses liability for Hotel Operators' Occupation Tax and Retailers' Occupation Tax in regard to a religious organization's summer camp lodging provided to members and nonmembers and the selling of food and other items. See 86 Ill. Adm Code 480.101 and 130.2005.

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ST 08-0172-GIL 12/09/2008 The renting or leasing of all or part of a condominium unit to the public would fall under the jurisdiction of the Hotel Operators' Occupation Tax Act, however, the gross receipts from the rentals or leases to persons who have the right to occupy the condominium unit for a period of at least 30 consecutive days would not be subject to tax. See 86 Ill. Adm. Code 480.101 and 480.105.

LOCAL TAXES

ST 08-0173-GIL 12/10/2008 The Metropolitan Pier and Exposition Authority (MPEA) Retailers' Occupation Tax applies to (i) sales of food, alcoholic beverages, and soft drinks sold for consumption on the premises where sold and (ii) sales of food, alcoholic beverages, and soft drinks sold for consumption off the premises where sold by a retailer whose principal source of gross receipts is from the sale of food, alcoholic beverages, and soft drinks prepared for immediate consumption. See 70 ILCS 210/13(b).

MANUFACTURER'S PURCHASE CREDIT

ST 08-0142-GIL 10/14/2008 Manufacturer's Purchase Credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. See, 86 Ill. Admin. Code 130.331.

ST 08-0200-GIL 12/29/2008 "Production related tangible personal property" means all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place. See 86 Ill. Adm. Code 130.331(b)(3)(A).

MANUFACTURING MACHINERY & EQUIPMENT

ST 08-0198-GIL 12/19/2008 The Manufacturing Machinery and Equipment exemption does not apply to hand tools, supplies, coolants, lubricants, adhesives, or solvents, items of personal apparel, coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water. See 86 Ill. Adm. Code 130.330.

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MEDICAL APPLIANCES

ST 08-0160-GIL 11/20/2008 A medical appliance is defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310(c).

MISCELLANEOUS

ST 08-0140-GIL 10/03/2008 The Department will not approve the accuracy of private legal publications.

ST 08-0155-GIL 11/18/2008 This letter discusses the tax consequence of reward credits. See 86 Ill. Adm. Code 130.401(c).

ST 08-0164-GIL 11/24/2008 The Department's regulation "Public Information, Rulemaking and Organization" provides that "[w]hether to issue a private letter ruling in response to a letter ruling request is within the discretion of the Department. The Department will respond to all requests for private letter rulings either by issuance of a ruling or by a letter explaining that the request for ruling will not be honored." 2 Ill. Adm. Code 1200.110(a)(4).

ST 08-0182-GIL 12/11/2008 Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers is exempt from Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.321.

MOTOR FUEL TAX

ST 08-0194-GIL 12/17/2008 This letter concerns County Motor Fuel Taxes imposed on biodiesel. See 55 ILCS 5/5-1035.1.

MOTOR VEHICLES

ST 08-0171-GIL 12/08/2008 This letter responds to a survey concerning taxation of vehicles. See 86 Ill. Adm. Code 151.101 et seq. and 180.101 et seq.

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NEXUS

- ST 08-0139-GIL 10/02/2008 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).
- ST 08-0143-GIL 10/15/2008 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).
- ST 08-0170-GIL 12/08/2008 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).
- ST 08-0184-GIL 12/12/2008 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).
- ST 08-0190-GIL 12/16/2008 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).
- ST 08-0195-GIL 12/17/2008 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).

ROLLING STOCK EXEMPTION

- ST 08-0199-GIL 12/22/2008 This letter concerns the rolling stock exemption. See 86 Ill. Adm. Code 130.340.

SALE AT RETAIL

- ST 08-0193-GIL 12/17/2008 Illinois retail sales are made by persons who either accept purchase orders in the State or maintain an inventory in Illinois and fill Illinois orders from that inventory. The Illinois retailer is then liable for Retailers' Occupation Tax on gross receipts of sales including any applicable local occupation tax. See 86 Ill. Adm. Code 270.115(b).

SALE FOR RESALE

- ST 08-0141-GIL 10/14/2008 This letter discusses the requirements for Certificates of Resale. 86 Ill. Adm. Code 130.1405.

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SALE OF SERVICE

ST 08-0180-GIL 12/11/2008 The Illinois Retailers' Occupation Tax and Use Tax do not apply to sales of service. See 86 Ill. Adm. Code 140.125(c).

SERVICE OCCUPATION TAX

ST 08-0146-GIL 10/17/2008 This letter discusses the taxation of maintenance agreements on extended warranties.

ST 08-0152-GIL 11/18/2008 This letter concerns tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.108.

ST 08-0159-GIL 11/20/2008 No Service Occupation Tax or Service Use Tax is incurred if no tangible personal property is transferred incident to sales of service. See 86 Ill. Adm. Code 140.

ST 08-0176-GIL 12/10/2008 This letter concerns tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.01.

ST 08-0177-GIL 12/10/2008 This letter discusses Service Occupation Tax and donor/donee situations. See 86 Ill. Adm. Code 150.305.

ST 08-0181-GIL 12/11/2008 This letter concerns tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101.

ST 08-0185-GIL 12/15/2008 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based on the tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.

ST 08-0186-GIL 12/16/2008 This letter concerns tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.01.

ST08-0187-GIL 12/16/2008 This letter concerns tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.

USE TAX

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- ST 08-0157-GIL 11/19/2008 The Illinois Use Tax is a privilege tax. See 86 Ill. Adm. Code 150.101.
- ST 08-0162-GIL 11/24/2008 This letter discusses sales of motor vehicles to nonresidents. See 86 Ill. Adm. Code 130.605.
- ST 08-0166-GIL 12/05/2008 A donor who places tangible personal property in the United States Postal Services for delivery into Illinois maintains the right to recall that tangible personal up until the time it is placed in the recipient's mail receptacle, thereby exercising power or control over that tangible personal property and, thus, making a taxable use of the property in Illinois. See 86 Ill. Adm. Code 150.201(a).
- ST 08-0169-GIL 12/08/2008 In general, the downloading of data represents the transfer of an intangible and is thus not subject to Retailers' Occupation and Use Tax. See 86 Ill. Adm. Code 130.2105.
- ST 08-0188-GIL 12/16/2008 When a retailer takes an item from inventory and makes a gift of it to someone the retailer is the user of the item and incurs a Use Tax liability on his cost price of the item. See 86 Ill. Adm. Code 150.305.

PROCLAMATIONS

2009-1**Early Hearing Detection and Intervention Day**

- WHEREAS, each day in the United States, it is estimated that sixty babies are born with moderate to severe hearing loss; and
- WHEREAS, early detection is the single most important factor in successful treatment of hearing loss. In Illinois, there are approximately 180,000 newborn babies who have their hearing screened every year. Recent studies suggest that intervention within the first six months of a hard of hearing infant's life is crucial to them reaching their speech, language, and learning potential; and
- WHEREAS, in Illinois, nearly five-hundred children are born with congenital hearing loss each year; and
- WHEREAS, to better deal with congenital hearing loss, the Illinois Hearing Screening for Newborns Act, passed in July of 1999, requires all birthing hospitals in the state to implement universal newborn hearing screening and reporting. The Universal Newborn Hearing Screening program was established to implement and administer the provisions of the act; and
- WHEREAS, the Universal Newborn Hearing Screening program is a joint effort of two state agencies: the Department of Human Services and the Department of Public Health. These agencies, along with the University of Illinois at Chicago's Division of Specialized Care for Children, the Bureau of Early Intervention, hospital personnel, healthcare professionals, and community-based organizations, strive to ensure that parents of babies who have a hearing loss receive follow-up diagnostic testing and information regarding communication options and other services for their children; and
- WHEREAS, the State of Illinois realizes the importance of universal newborn hearing screening and its impact on not only the lives of our children but their families and communities as well:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 2, 2009 as **EARLY HEARING DETECTION AND INTERVENTION DAY** in Illinois in order to increase awareness of the role that early detection plays in the successful treatment of hearing loss.

Issued by the Governor January 2, 2009

Filed by the Secretary of State January 12, 2009.

2009-2

PROCLAMATIONS

Cervical Cancer Awareness Month

WHEREAS, every year in the United States there are approximately 10,000 women diagnosed with and 3,700 women who die from cervical cancer; and

WHEREAS, in 2009, it is estimated in Illinois 590 women will be diagnosed and 200 women will die from cervical cancer; and

WHEREAS, most deaths from the disease could be avoided if women had regular checkups, including a Pap test. Early detection significantly increases chances of survival. In fact, if detected early, cervical cancer is nearly 100 percent curable; and

WHEREAS, that is why I expanded the Illinois Breast and Cervical Cancer Program, which made Illinois the first state in the nation to ensure that all women can get access to potentially life-saving cancer screenings and treatment; and

WHEREAS, throughout January, public and private organizations and state and local governments all around the country will promote education about cervical cancer screenings, treatment and causes:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 2009 as **CERVICAL CANCER AWARENESS MONTH** in Illinois to raise awareness about cervical cancer and to encourage all women to get tested regularly for the disease.

Issued by the Governor January 5, 2009

Filed by the Secretary of State January 12, 2009.

2009-3**Radon Action Month**

WHEREAS, radon is a colorless, odorless, tasteless, radioactive gas that is released from the decay of uranium in soil and can seep into homes and buildings up to dangerous levels; and

WHEREAS, breathing radon over prolonged periods can pose a significant health risk. The Surgeon General of the United States issued a national health advisory warning Americans that indoor radon is the second-leading cause of lung cancer in the country. According to the United States Environmental Protection Agency, more than 21,000 lung cancer deaths every year are related to radon; and

WHEREAS, in the State of Illinois, as many as 1,160 men and women are at risk of developing radon-related lung cancer every year. The health risks, however, are completely preventable; and

PROCLAMATIONS

WHEREAS, radon can be detected with a simple test and fixed through well-established venting techniques. Since 2002, more than 70,000 measurements have been taken in our state, and homes that exceed the Environmental Protection Agency's Radon Action Level of 4.0 pCi/L have been corrected; and

WHEREAS, the Illinois Radon Awareness Act went into effect January 1, 2008 and requires sellers to provide anyone buying a home, condominium or other residential property in Illinois with information about indoor radon exposure and its link to lung cancer; and

WHEREAS, it is also important that homes are tested for radon every two years. Consequently, the Illinois Emergency Management Agency and the American Lung Association of Illinois are partnering to provide radon information and guidance to families in our state about testing their homes regularly to find out how much radon they might be breathing; and

WHEREAS, in addition to the Emergency Management Agency and the American Lung Association, many organizations throughout the country will raise awareness about the health risks posed by radon during the month of January:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 2009 as **RADON ACTION MONTH** in Illinois, and urge all the citizens of our state to test their homes for radon and reduce their risk of developing lung cancer by taking actions to lower radon levels in their homes when necessary.

Issued by the Governor January 5, 2009

Filed by the Secretary of State January 12, 2009.

ILLINOIS ADMINISTRATIVE CODE

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