

# 2010

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# ILLINOIS

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# 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 2010

| <u>Issue #</u> | <u>Rules Due Date</u> | <u>Date of Issue</u> |
|----------------|-----------------------|----------------------|
| 1              | December 21, 2009     | January 4, 2010      |
| 2              | December 28, 2009     | January 8, 2010      |
| 3              | January 4, 2010       | January 15, 2010     |
| 4              | January 11, 2010      | January 22, 2010     |
| 5              | January 19, 2010      | January 29, 2010     |
| 6              | January 25, 2010      | February 5, 2010     |
| 7              | February 1, 2010      | February 16, 2010    |
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| 9              | February 16, 2010     | February 26, 2010    |
| 10             | February 22, 2010     | March 5, 2010        |
| 11             | March 1, 2010         | March 12, 2010       |
| 12             | March 8, 2010         | March 19, 2010       |
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| 14             | March 22, 2010        | April 2, 2010        |
| 15             | March 29, 2010        | April 9, 2010        |
| 16             | April 5, 2010         | April 16, 2010       |
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| 19             | April 26, 2010        | May 7, 2010          |
| 20             | May 3, 2010           | May 14, 2010         |
| 21             | May 10, 2010          | May 21, 2010         |
| 22             | May 17, 2010          | May 28, 2010         |
| 23             | May 24, 2010          | June 4, 2010         |

| <u>Issue #</u> | <u>Rules Due Date</u> | <u>Date of Issue</u> |
|----------------|-----------------------|----------------------|
| 24             | June 1, 2010          | June 11, 2010        |
| 25             | June 7, 2010          | June 18, 2010        |
| 26             | June 14, 2010         | June 25, 2010        |
| 27             | June 21, 2010         | July 2, 2010         |
| 28             | June 28, 2010         | July 9, 2010         |
| 29             | July 6, 2010          | July 16, 2010        |
| 30             | July 12, 2010         | July 23, 2010        |
| 31             | July 19, 2010         | July 30, 2010        |
| 32             | July 26, 2010         | August 6, 2010       |
| 33             | August 2, 2010        | August 13, 2010      |
| 34             | August 9, 2010        | August 20, 2010      |
| 35             | August 16, 2010       | August 27, 2010      |
| 36             | August 23, 2010       | September 3, 2010    |
| 37             | August 30, 2010       | September 10, 2010   |
| 38             | September 7, 2010     | September 17, 2010   |
| 39             | September 13, 2010    | September 24, 2010   |
| 40             | September 20, 2010    | October 1, 2010      |
| 41             | September 27, 2010    | October 8, 2010      |
| 42             | October 4, 2010       | October 15, 2010     |
| 43             | October 12, 2010      | October 22, 2010     |
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| 49             | November 22, 2010     | December 3, 2010     |
| 50             | November 29, 2010     | December 10, 2010    |
| 51             | December 6, 2010      | December 17, 2010    |
| 52             | December 13, 2010     | December 27, 2010    |
| 53             | December 20, 2010     | January 3, 2011      |

**Editor's Note:** The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 15, 2010 to January 3, 2011.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Practice in Administrative Hearings
- 2) Code Citation: 89 Ill. Adm. Code 104
- 3) 

| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
|-------------------------|-------------------------|
| 104.103                 | Amendment               |
| 104.106                 | New Section             |
| 104.209                 | Repealed                |
| 104.210                 | Amendment               |
| 104.221                 | Amendment               |
| 104.244                 | Amendment               |
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 96-1284
- 5) Complete Description of the Subjects and Issues Involved: This proposed rulemaking adds a new Section to implement Public Act 96-1284, effective January 1, 2011, that allows the obligor of a suspended license who has applied for a family responsibility driving permit and has been rejected, to appeal that permit rejection for a final administrative decision. In addition the proposed rulemaking simplifies appeals for non-custodial parents when the Division of Child Support Services uses professional license suspension/revocation as an enforcement tool.
- 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 rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue E., 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/782-1233

The Department requests the submission of written comments within 45 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].

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this Rulemaking was Summarized: January 2010

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER a: GENERAL PROVISIONS

## PART 104

## PRACTICE IN ADMINISTRATIVE HEARINGS

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| 104.101 | Petition for Hearing  |
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| 104.103 | Conduct of Hearings to Contest the Determination of Past-Due Support <u>or of a Failure of a Licensee to Comply with a Subpoena or Warrant in a Paternity or Child Support Proceeding</u> or of Share of Jointly-Owned Federal or State Income Tax Refunds or Other Joint Federal or State Payments |
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## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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104.800 Incorporation by Reference

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 151, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 26, 1978; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; preemptory amendment at 3 Ill. Reg. 11, p. 38, effective March 1, 1979; amended at 4 Ill. Reg. 21, p.80, effective May 8, 1980; preemptory amendment at 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days;

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

emergency amendment at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14977, effective November 7, 1997; emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2393, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11734, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 2418, effective January 27, 2000; amended at 25 Ill. Reg. 5351, effective April 1, 2001; amended at 26 Ill. Reg. 9836, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11022, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 12306, effective July 26, 2002; amended at 26 Ill. Reg. 17743, effective November 27, 2002; amended at 27 Ill. Reg. 5853, effective March 24, 2003; amended at 27 Ill. Reg. 13771, effective August 1, 2003; amended at 28 Ill. Reg. 2735, effective February 1, 2004; emergency amendment at 29 Ill. Reg. 2735, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10187, effective June 30, 2005; amended at 31 Ill. Reg. 2387, effective January 19, 2007; amended at 32 Ill. Reg. 16797, effective October 6, 2008; amended at 33 Ill. Reg. 6283, effective April 15, 2009; amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

**Section 104.103 Conduct of Hearings to Contest the Determination of Past-Due Support or of a Failure of a Licensee to Comply with a Subpoena or Warrant in a Paternity or Child Support Proceeding or of Share of Jointly-Owned Federal or State Income Tax Refunds or Other Joint Federal or State Payments**

- a) Hearings on petitions to contest the determination of the amount of past-due support or of the share of jointly-owned federal or State income tax refunds or other joint federal or State payments shall be governed by Section 104.102, except that subsections (a) and (c) shall not apply, and the following terms as used therein are redefined:
  - 1) "administrative support order" shall mean determinations of past-due support or of failure of a licensee to comply with a subpoena or warrant in a paternity or child support proceeding or of share of jointly-owned federal or State income tax refunds or other joint federal or State payments.
  - 2) ~~"liability" shall mean past-due support or share of jointly-owned federal or State income tax refunds or other joint federal or State payments.~~

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 23) "responsible relative" shall also mean joint payee.
- b) Upon receipt of a hearing request from a responsible relative or joint payee concerning:
- 1) an advance notice of intercept, the Department shall, if the request concerns a joint federal or State income tax refund or other joint federal or State payment, inform the responsible relative or joint payee of the steps necessary for the joint payee to secure his proper share of the refund or payment, as stated in the advance notice.
  - 2) an amount already intercepted, the Department shall refer the responsible relative or joint payee to the Internal Revenue Service, if the request concerns a joint federal income tax refund.
- c) Within 45 days after the receipt of a notification from a state intercepting a federal income tax refund that the responsible relative has requested an administrative review in this State, the Department shall complete the procedures set forth in subsection (a) above. The Department shall notify the submitting state promptly of the decision and notify the Department of Health and Human Services of the deletion of the amount referred for intercept.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 104.106 Conduct of Hearings on Petitions for Family Financial Responsibility  
Driving Permits**

- a) Hearings on petitions filed by responsible relatives aggrieved by the Department's determination regarding a request for issuance of a family financial responsibility driving permit under 89 Ill. Adm. Code 160.70(m) shall be:
- 1) de novo, and the Department's decision on the petition shall be independent of the prior determination; and
  - 2) governed by Sections 104.10 through 104.70, except that "appellant" as used within this Part shall refer to the responsible relative who petitions as set out in subsection (b).
- b) The following additional rules shall govern:

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) A request for an appeal must be filed in the regional or central office of the Division of Child Support Services at the address furnished in the Department's notice of determination.
- 2) For purposes of notice and of presenting evidence, the Title IV-D client and the responsible relative shall be considered interested parties.
- 3) Hearings shall be conducted by a hearing officer authorized by the Director of the Department to consider issues under appeal by Title IV-D responsible relatives.
- 4) If the responsible relative is an Illinois resident, the hearing shall be conducted in the responsible relative's county of residence. If the responsible relative is not an Illinois resident but the client is an Illinois resident, the hearing shall be conducted in the client's county of residence. If neither the responsible relative nor the client is an Illinois resident, the hearing shall be conducted in the appropriate regional office of the Division of Child Support Services. If a responsible relative is outside the State, he or she may, in a manner consistent with Section 11-8.2 of the Illinois Public Aid Code [305 ILCS 5/11-8.2], present his or her case through depositions and witnesses. In addition, a responsible relative may request to participate in the hearing by telephone, at his or her own expense.
- 5) Documents certified by a clerk of the court or a Title IV-D agency shall be admitted into evidence without further proof. (Refer to Section 104.23 for admission of other evidence.)
- 6) In addition to the responsible relative, the Division of Child Support Services may request and receive a continuance for good cause shown (for example, illness or other circumstance that prevents continued participation in the normal course of the hearing).
- 7) Following the hearing, the Director of the Department shall make a Final Administrative Decision. A copy of the decision shall be mailed to each interested party and the parties' representatives, if any. The Department shall take appropriate action implementing the decision within 30 days after its release.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: MEDICAL VENDOR AND ALTERNATE PAYEE HEARINGS

**Section 104.209 Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to, or Failure to Comply with a Subpoena or Warrant from, a State Licensing Agency and to Take Disciplinary Action (Repealed)**

~~If the Department intends to certify past-due support owed by a responsible relative to a State licensing agency or failure to comply with a subpoena or warrant and the licensing agency intends to take disciplinary action, the Department and the licensing agency shall notify the responsible relative in writing, setting forth:~~

- ~~a) the reasons for the intended actions;~~
- ~~b) a statement of the right to request a hearing;~~
- ~~c) a statement of the time, place and nature of the hearing, if one is requested;~~
- ~~d) a statement of the legal authority and jurisdiction under which the hearing is to be held;~~
- ~~e) a reference to the Sections of the statutes and rules involved; and~~
- ~~f) a statement of the right to prevent certification and disciplinary action by payment of the past-due support in full or by entering into a payment plan acceptable to the Department, or in cases involving failure to comply with a subpoena or warrant, by complying with the subpoena or warrant.~~

(Source: Repealed at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 104.210 Right to Hearing**

- a) An entity may request a hearing within 10 days after the entity's receipt of the Department's notice of:
  - 1) the Department's decision to deny an application (as provided in Section 104.204);

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 2) the Department's intent to recover money (as provided in Section 104.206); ~~or~~
  - 3) the Department's intent to terminate or suspend a vendor's eligibility or terminate (or not renew) a vendor's provider agreement or revoke an alternate payee (as provided in Section 104.208); ~~or~~
  - 4) ~~the Department's intent to certify past-due support owed by a responsible relative to, or failure to comply with a subpoena or warrant from, a State licensing agency and the licensing agency's intent to take disciplinary action (as provided in Section 104.209).~~
- b) A request for hearing must be received by the Department within 10 days after the date on which the vendor or alternate payee received the Department's Notice.
  - c) This request must be in writing and must contain a brief statement of the basis upon which the Department's action is being challenged.
  - d) If such a request is not received within 10 days, or is received but later withdrawn, the Department's decision and the grounds asserted in the Notice as the basis for that decision shall be a final and binding administrative determination.
  - e) In actions initiated pursuant to Section 104.206 or 104.208(b), if a vendor or alternate payee requests a hearing, such a request shall not delay the effective date of action set forth in the Notice. In all other actions initiated pursuant to Sections 104.204 or 104.208(a), (d) or (e), the action shall not take place until the final administrative decision has been issued.
  - f) A long term care facility may request a hearing within 60 days after receipt of the Department's notice on any action initiated pursuant to Section 104.208(c) or (d). For a nursing home (not an ICF/MR facility), such request shall not delay the effective date of action set forth in the notice pursuant to Section 104.208(c).

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 104.221 Issues at Hearings**

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- a) The sole issue at a hearing where the basis for denial of an application pursuant to 89 Ill. Adm. Code 140.14(d) is that the vendor does not have a necessary license, certificate or authorization shall be whether the vendor has such a license, certificate or authorization.
- b) The sole issue at a hearing where the basis of the denial of an application is as set forth in 89 Ill. Adm. Code 140.14(b) shall be whether the vendor has demonstrated, according to the factors listed in that Section, in light of the prior activities, that he should be admitted to the Medical Assistance Program.
- c) The sole issue at a hearing where the basis for termination is as set forth in 89 Ill. Adm. Code 140.16(a)(2) shall be whether the appropriate licensing, certifying or authorizing agency has determined that the vendor does not have a necessary license, certification or authorization.
- d) The sole issue at a hearing requested by a previously suspended vendor that is being terminated pursuant to 89 Ill. Adm. Code 140.19(b) shall be whether the vendor has corrected the deficiencies on which the suspension was based.
- e) At a hearing conducted pursuant to Subpart D of this Part, the sole relevant time with respect to the existence of the violations of the Department's requirements alleged in the notice shall be the date or dates in the notice.
- ~~f) The only issues at a hearing initiated pursuant to Section 104.209 are whether the responsible relative has or is applying for a license, the amount, if any, of delinquent child support owed pursuant to a support order entered by a court or administrative body, whether the responsible relative is more than 30 days delinquent, and, if applicable, whether the responsible relative failed to comply with a subpoena or warrant.~~
- ~~f~~g) The only issue at a hearing initiated pursuant to 89 Ill. Adm. Code 140.16(c) is whether the vendor is not in compliance with State income tax requirements, child support requirements of Article X of the Public Aid Code, or educational loans guaranteed by the Illinois Student Assistance Commission.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 104.244 Burden of Proof**

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## NOTICE OF PROPOSED AMENDMENTS

- a) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.14 shall be on the Department if the application was denied because the vendor engaged in activities which constitute grounds for termination or was denied pursuant to 89 Ill. Adm. Code 140.14(c). The burden of proof shall be on the applicant if the application was denied because of:
- 1) a determination that a previously terminated or barred vendor cannot reasonably be expected to meet the requirements of the Department; or
  - 2) a determination that based on the activities which served as the basis for terminating or barring a vendor, the application should not be approved.
- b) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.15 or Subpart D of this Part shall be on the Department.
- c) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.16 shall be on the Department.
- d) The burden of proof in hearings conducted pursuant to 89 Ill. Adm. Code 140.32 shall be on the party seeking special permission, and in hearings conducted pursuant to 89 Ill. Adm. Code 140.19(b) shall be on the vendor.
- e) In the case of any new matter introduced in connection with any affirmative defense, the burden of proof with respect thereto shall be upon the party which alleges such new matter. ~~In hearings initiated pursuant to Section 104.209, a party alleging that the support order referenced in the notice has subsequently been modified shall have the burden of producing a certified copy of the modified order.~~
- f) The standard of proof with respect to all hearings conducted pursuant to these rules shall be a preponderance of the evidence.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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

|                         |                         |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 160.70                  | Amendment               |
| 160.77                  | Repeal                  |
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 96-1284
- 5) Complete Description of the Subjects and Issues Involved: This proposed rulemaking amends rules to implement Public Act 96-1284, effective January 1, 2011, which provides that following suspension of the obligor's driver's license for failure to pay child support, the Department of Healthcare and Family Services may direct the Secretary of State to issue a family financial responsibility driving permit under the purposes and limitations set forth in this rule. In addition the proposed rulemaking simplifies appeals for non-custodial parents when the Division of Child Support Services uses professional license suspension/revocation as an enforcement tool.
- 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 rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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## NOTICE OF PROPOSED AMENDMENTS

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue E., 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/782-1233

The Department requests the submission of written comments within 45 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].

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this Rulemaking was Summarized: January 2010

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER f: COLLECTIONS

PART 160

CHILD SUPPORT SERVICES

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section

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

SUBPART C: ESTABLISHMENT AND MODIFICATION OF  
CHILD SUPPORT ORDERS

Section

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

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

|         |   |
|---------|---|
| Section |   |
| 160.70  | Enforcement of Support Orders   |
| 160.71  | Credit for Payments Made Directly to the Title IV-D Client  |
| 160.75  | Withholding of Income to Secure Payment of Support  |
| 160.77  | Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies <u>(Repealed)</u> |
| 160.80  | Amnesty – 20% Charge (Repealed)   |
| 160.85  | Diligent Efforts to Serve Process   |
| 160.88  | State Case Registry   |
| 160.89  | Interest  |

## SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

|         |                                   |
|---------|-----------------------------------|
| Section |                                   |
| 160.90  | Earmarking Child Support Payments |

## SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

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

## SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

|         |  |
|---------|--|
| Section |  |
| 160.140 | Quarterly Notice of Child Support Account Activity |

## SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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

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

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

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effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000; emergency amendment at 26 Ill. Reg. 11092, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17822, effective November 27, 2002; amended at 27 Ill. Reg. 4732, effective February 25, 2003; amended at 27 Ill. Reg. 7842, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 12139, effective July 11, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18891, effective November 26, 2003; amended at 28 Ill. Reg. 4712, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 10225, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15591, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 2743, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10211, effective June 30, 2005; amended at 29 Ill. Reg. 14995, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 5426, effective March 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 8897, effective May 1, 2006; amended at 30 Ill. Reg. 13393, effective July 28, 2006; amended at 31 Ill. Reg. 12771, effective August 27, 2007; emergency amendment at 32 Ill. Reg. 543, effective January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6511, effective March 31, 2008; amended at 32 Ill. Reg. 16805, effective October 6, 2008; amended at 33 Ill. Reg. 591, effective January 5, 2009; amended at 33 Ill. Reg. 9077, effective June 15, 2009; amended at 33 Ill. Reg. 12732, effective September 7, 2009; amended at 34 Ill. Reg. 6809, effective May 1, 2010; amended at 34 Ill. Reg. 15406, effective September 27, 2010; amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

**Section 160.70 Enforcement of Support Orders**

- a) **Income Withholding**  
Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases, and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].
- b) **Federal and State Income Tax Refunds and Other Payments**
  - 1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State income tax refunds and other federal and State payments (see Section 10.05a of the

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State Comptroller Act [15 ILCS 405/10.05a], Section 2505-650 of the Department of Revenue Law [20 ILCS 2505/2505-650] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.) due such relatives.

- 2) The Department shall submit past-due support amounts to:
  - A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:
    - i) in IV-D TANF and IV-D foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than \$150. The Department may combine assigned support amounts from the same obligor in multiple cases to reach the minimum amount of \$150 for TANF, AFDC and Foster Care cases; however, amounts under this subsection (b)(2)(A)(i) may not be combined with amounts under subsection (b)(2)(A)(ii) to reach the minimum amounts required for submittal; and
    - ii) in IV-D non-TANF cases, past-due support owed to or on behalf of a child, or a child and the parent with whom the child is living if the same support order includes support for the child and the parent, and the amount of past-due support is not less than \$500. The Department may combine non-assistance support amounts from the same obligor in multiple cases to reach the minimum amount of \$500; however, amounts under this subsection (b)(2)(A)(ii) may not be combined with amounts under subsection (b)(2)(A)(i) to reach the minimum amounts required for submittal.
  - B) the Illinois Department of Revenue to intercept State income tax refunds and the Comptroller to intercept other State payments as follows:
    - i) in active IV-D cases, past-due support owed in an amount

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not less than one month's support obligation or \$25, whichever is less;

- ii) in inactive IV-D TANF or AFDC and IV-D foster care cases, past-due support owed in any amount; and
  - iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of those circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.
- 3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:
- A) the IV-D case name and identification number;
  - B) the past-due support amount that will be submitted for intercept, and that any additional past due support that accumulates will be subject to collection by the Department without further notice;
  - C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:
    - i) a redetermination by the Department or, after such redetermination,
    - ii) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and
  - D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the

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refund that may be payable to that spouse, in the case of a joint federal income tax return.

- 4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.
- 5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest those results by requesting:
  - A) a hearing by the Department within 30 days after the date of mailing of the notice; or
  - B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.
- 6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within ten days after the responsible relative's request. The Department shall be bound by the decision of the state with the order.
- 7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 8) The Department shall notify:
  - A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;
  - B) the Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;

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- C) the Illinois Department of Revenue of any deletion of an amount submitted for State income tax refund and the Comptroller for other payment intercept or any significant decrease in the amount; and
  - D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.
- 9) The Department shall:
- A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and
  - B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, such equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his or hers; except that the Comptroller shall apportion refunds and payments in matters where the intercepted funds have not yet been transferred to the Department.
- 10) The Department shall, as promptly as possible, apply collections it receives as a result of intercept under this subsection (b) as follows:
- A) federal income tax refunds first to satisfy any IV-D TANF or AFDC or IV-D foster care assigned past-due support and then to satisfy any IV-D non-TANF past-due support; and
  - B) other federal and State payments in accord with distribution provisions in Subpart F of this Part.
- 11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:

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- A) amounts intercepted under this subsection (b) will be applied in accordance with Section 160.130;
  - B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his share of a joint tax refund.
- c) Unemployment Insurance Benefits
- 1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past-due support amount equal to a one-month support obligation.
  - 2) The Department shall take the following action:
    - A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.
    - B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.
    - C) establish the amount to be deducted by data entry to the DES computer file, which amount shall be the lesser of:
      - i) the amount of the income withholding order; or
      - ii) fifty percent of the Unemployment Insurance Benefit.
    - D) receive amounts deducted direct from DES.
    - E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.

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

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

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

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

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

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- ii) the responsible relative has an interest in personal property against which a lien may be claimed; and
  - iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least \$300.
- B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative, any joint owner of whom the Department has knowledge and location information, the financial institution in which an account of the responsible relative is located, the sheriff of the county in which goods or chattels of the responsible relative are located, or any person or entity indebted to or holding personal property of the responsible relative or who may be liable for payment of money in connection with a claim or cause of action of the responsible relative. The notice shall contain the following:
- i) the name and address of the responsible relative;
  - ii) a description of the account or personal property to be levied;
  - iii) the amount of past-due support to be satisfied by the levy;
  - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative;
  - v) the right of the responsible relative to prevent levy upon the personal property, including accounts, by payment of the past-due support amount in full or by contesting the determination that past-due support is owed or the amount of past-due support by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and
  - vi) the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal

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property already levied, by requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or Levy by the Department may request a hearing by the Department within 45 days after the date of levy of the account or other personal property.

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

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provisions for the financial institution to complete stating:

- i) the amount of assets in the responsible relative's account;
  - ii) the amount of the fee to be deducted from the account;
  - iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution;
  - iv) the name and address of any joint owners of the account;  
and
  - v) the amount of assets surrendered and remitted to the Department.
- E) A written request for a hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon the personal property, although the lien shall remain in effect during the pendency of any appeal taken pursuant to this subsection (f).
- F) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner's written request for a hearing.
- H) The Department, upon determining a joint owner's share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner's share. If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account.
- I) The Department shall notify the Clerk of the Court of the county in

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which the child support order was entered of any amount collected for posting to the court payment record.

- J) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (f).
- g) Security, Bond or Other Guarantee of Payment
- 1) Except as provided in subsections (g)(2) and (3) of this Section, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code [305 ILCS 5/10-17.4].
  - 2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment. Except where the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.
  - 3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.
- h) Past-Due Support Information to Consumer Reporting Agencies

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- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (b)(2)(A) of this Section:
  - A) the name, last known address and Social Security Number of the responsible relative; and
  - B) the terms and amount of past-due support that has accumulated under the order for support.
- 2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies, which advance notice shall inform the relative of the following:
  - A) the IV-D case name and identification number;
  - B) the past-due support amount that will be reported;
  - C) the date past-due support will be reported; and
  - D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.
- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:

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- A) a request for:
    - i) a redetermination, or
    - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
  - B) payment in full of the amount of the past-due support stated in the:
    - i) advance notice, or
    - ii) notice of redetermination or hearing results.
- 6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
- i) High-Volume Automated Administrative Enforcement in Interstate Cases
- 1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of such enforcement activity to the requesting state.
  - 2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and seize those assets through levy or other appropriate processes.
  - 3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:
    - A) Include information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.

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- B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.
- 4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of the other state.
- 5) The Department shall maintain records of:
  - A) The number of requests for assistance received by the Department.
  - B) The number of cases for which the Department collected support in response to a request and the actual amount of support collected.
- j) Past-Due Support Certified to the Illinois Department of Revenue, to municipalities or to the IV-D Agency of Another State for Administrative Enforcement in the Other State
  - 1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Illinois Public Aid Code [305 ILCS 5/10-17.9]), to municipalities with ordinances to immobilize and impound vehicles for non-payment of child support (see Section 10-17.3 of the Illinois Public Aid Code [305 ILCS 5/10-17.3]) or to another state's IV-D agency for administrative enforcement where the responsible relative has property in the other state.
  - 2) The Department may certify past-due support amounts to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:
    - A) past-due support is owed for a child or for a child and the parent with whom the child is living;
    - B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3) of this Section;

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- C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and
  - D) the responsible relative is not deceased.
- 3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state, which advance notice shall inform the responsible relative of the following:
- A) the IV-D case name and identification number;
  - B) the past-due support amount that will be submitted for collection;
  - C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and
  - D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.
- 4) Factors for a satisfactory repayment plan will include, but are not limited to:
- A) the amount of past-due support owed;
  - B) the amount to be paid toward the past-due amount;
  - C) the amount of current child support obligations; and
  - D) the individual's ability to pay.
- 5) The Department shall provide the Illinois Department of Revenue, municipalities or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:

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- A) name;
  - B) Social Security Number;
  - C) IV-D identification number; and
  - D) the past-due support amount.
- 6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state.
- 7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest those results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.
- 8) A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) of this Section.
- 9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.
- 10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- 11) The Department shall:
- A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support

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obligation; or

- B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, which is still in the possession of the Department.
- k) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports
- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds \$2,500:
    - A) the name, last known address and Social Security Number of the responsible relative; and
    - B) the terms and amount of past-due support that has accumulated under the order for support.
  - 2) The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services, which advance notice shall inform the relative of the following:
    - A) the IV-D case name and identification number;
    - B) the past-due support amount that will be certified;
    - C) the date past-due support will be certified; and
    - D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
  - 3) The Department shall provide the responsible relative with notice of the

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results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.

- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
  - 5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:
    - A) a request for:
      - i) a redetermination, or
      - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
    - B) payment in full of the amount of the past-due support stated in the:
      - i) advance notice, or
      - ii) notice of redetermination or hearing results.
  - 6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
- l) List of Responsible Relatives
    - 1) Any list of responsible relatives owing past-due support to be disclosed pursuant to Section 12-12.1 of the Illinois Public Aid Code [305 ILCS 5/12-12.1] shall be developed as required by this subsection (l).
    - 2) The list shall include no more than 200 responsible relatives at any given time, shall include only responsible relatives owing \$5,000 or more in past-due support accumulated under Illinois court or administrative support orders, and shall include, but is not limited to, the following information about each responsible relative:

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- A) the name of the responsible relative;
  - B) the responsible relative's last known address; and
  - C) the amount of past-due support as of a given date, expressed within a range (for example, \$50,000-\$100,000), that has accumulated under the support order.
- 3) The Department shall make the list available for public inspection at its offices or by other means of publication, including the Internet.
  - 4) The Department shall send an advance notice by certified mail to the responsible relative at his or her last known address at least 90 days prior to publishing past-due support information. The advance notice shall inform the responsible relative of the following:
    - A) the IV-D case name and identification number;
    - B) the past-due support amount as of a given date;
    - C) the earliest date by which past due support information will be published;
    - D) the right to contest the determination that past-due support is owed or the amount of past-due support by submitting a written request to the Department for a hearing no later than 10 days before the date of publication stated in the advance notice; and
    - E) that within 60 days from the date of delivery or refusal of the advance notice, the responsible relative may avoid publication of the past-due support information by paying the past-due support in full, or by establishing and complying with a satisfactory payment plan as determined by the Department.
  - 5) Factors for a satisfactory payment plan will include, but are not limited to:
    - A) the amount of past-due support owed;

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- B) the amount to be paid toward the past-due support;
  - C) the amount of the current support obligations; and
  - D) the responsible relative's ability to pay.
- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.101 and 104.103 upon receipt of a request for a hearing.
- 7) The Department shall be stayed from publishing past-due support information regarding the responsible relative by any of the following:
- A) a timely written request for hearing from the responsible relative regarding the existence or amount of past-due support stated in the advance notice; or
  - B) as of the date of publishing, a pending judicial review of a final administrative decision of the Department issued pursuant to this subsection.
- m) Certification ~~of Past-Due Support~~ to the Illinois Secretary of State for Driver's License Suspension
- 1) The Department shall issue a Notice of Intent to Request Suspension of an Illinois Driver's License to a responsible relative in accordance with Section 10-17.6 of the Illinois Public Aid Code [305 ILCS 5/10-17.6] and Section 7-702 of the Illinois Vehicle Code [625 ILCS 5/7-702], when the following circumstances exist:
- A) the amount of past-due support is at least \$2500, and the responsible relative has not made a voluntary payment of support in the last 90 days; or
  - B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding. the responsible relative has not made a voluntary payment in the last 90 days.
- 2) The Notice of Intent to Request Suspension of an Illinois Driver's License shall contain the following:

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- A) ~~the IV-D case name and identification number~~the name and address of responsible relative;
- B) ~~the past due support amount and the amount of interest that will be certified~~the responsible relative's Recipient Identification Number;
- C) ~~the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;~~the responsible relative's Driver's License Number;
- ~~D) the amount of past due support, including interest;~~
- E) ~~the fact that the responsible relative's name will be referred to the Secretary of State for suspension of the driver's license if the responsible relative fails to contact the Department within 15 days after the mailing date of Notice;~~
- ~~D)F)~~ the right of the responsible relative to prevent certification to the Secretary of State for ~~driver's~~the license suspension by payment of the past-due support amount and interest in full or by entering into a ~~payment~~repayment plan satisfactory to the Department or to contest the amount of past-due support and interest that is owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and-
- E) ~~the right of the responsible relative to prevent certification to the Secretary of State for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by the Department within 15 days after the date of mailing by the Department.~~
- 3) Factors for an acceptable payment plan will include, but are not limited to:
- A) the amount of past due support and interest owed;

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- B) the amount of current child support ordered to be paid; and
- C) the responsible relative's ability to pay.
- 4)3) The responsible relative's commencement of periodic payments on the past due support amount owed in compliance with a court or administrative order entered prior to the date of the Notice of Intent to Request Suspension of an Illinois driver's license shall be deemed by the Department to be a satisfactory payment~~repayment~~ plan.
- 5)4) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Suspension of an Illinois Driver's License shall stay the Department from certifying past-due support and interest, or failure to comply with a subpoena or warrant, to the Secretary of State.
- 6)5) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- 7) Following certification to the Secretary of State for driver's license suspension and upon request of the responsible relative, the Department shall direct the Secretary of State to issue a family financial responsibility driving permit in accordance with subsection (b) of Section 10-17.6 of the Illinois Public Aid Code [305 ILCS 5/10-17.6(b)] and subsection (b) of Section 7-702.1 of the Illinois Vehicle Code [625 ILCS 5/7-702.1(b)], when the following circumstances exist requiring the responsible relative to operate a motor vehicle:
- A) between the responsible relative's residence and place of employment, or within the scope of employment related duties, as verified by the employer in writing; or
- B) for the purpose of providing transportation for the responsible relative or a household member to receive alcohol treatment, other drug treatment, or medical care as verified in writing by the treatment center or physician that includes the duration of treatment; or

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- C) for the purpose of the unemployed responsible relative seeking employment.
- 8) When directing the issuance of a family financial responsibility driving permit for the purpose of seeking employment under subsection (m)(7)(C) of this Section, the Department shall require that:
- A) the permit be limited to Monday through Friday between the hours of 8:00 a.m. and 12:00 p.m. unless the responsible relative provides written documentation showing that to so limit the hours of the permit would have an adverse effect on the responsible relative's ability to seek employment; and
- B) the responsible relative provides to the Department a job search diary every 30 days showing contact with no less than ten potential employers during a 30 day period.
- 9) The maximum duration of a family financial responsibility driving permit issued shall be one year from the date of issuance by the Secretary of State, with the ability of the responsible relative to request issuance of a new permit after the initial permit has expired.
- 10) The Department may direct the issuance of a family financial responsibility driving permit to the responsible relative only if no alternative means of transportation is reasonably available for the purposes stated in this subsection (m).
- 11) The Department shall direct the Secretary of State to cancel the family financial responsibility driving permit in the event the responsible relative violates the conditions of its issuance.
- 12) Any responsible relative aggrieved by the Department's determination on a request for issuance of a family financial responsibility driving permit may file a written request for hearing within 15 days after the date of mailing of the results of the determination to the responsible relative. The Department shall proceed in accordance with 89 Ill. Adm. Code 104.106 upon receipt of a request for hearing.

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- n) Certifying Past Due Support or Failure to Comply with a Subpoena or Warrant to State Professional, Occupational or Recreational Licensing Agencies
- 1) The Department shall issue a Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License to a responsible relative when the following circumstances exist:
- A) the amount of past due support is at least \$1,000, and the responsible relative has not made a voluntary payment of support in the last 90 days; or
- B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding.
- 2) The Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall inform the responsible relative of the following:
- A) the IV-D case name and identification number;
- B) the past due support amount and the amount of interest that will be certified;
- C) the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;
- D) the right of the responsible relative to prevent certification to the licensing agency by payment of the past due support amount and interest in full or by entering into a payment plan satisfactory to the Department, or to contest the amount of past due support and interest owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and
- E) the right of the responsible relative to prevent certification to the licensing agency for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant, or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by

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the Department within 15 days after the date of mailing by the Department.

- 3) Factors for an acceptable payment plan will include, but are not limited to:
  - A) the amount of past due support and interest owed;
  - B) the amount of current child support ordered to be paid; and
  - C) the responsible relative's ability to pay.
- 4) The responsible relative's commencement of periodic payments on the past due support amount owed in compliance with a court or administrative order entered prior to the date of mailing of the Notice of Intent to Request Revocation, Suspension or Denial of Professional, Occupational or Recreational License shall be deemed by the Department to be a satisfactory payment plan.
- 5) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall stay the Department from certifying past due support and interest or failure to comply with a subpoena or warrant to the licensing agency.
- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a timely written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

o)† Debit Authorization for Obligor's Who Are Not Subject to Income Withholding

- 1) The Department shall adopt a child support enforcement debit authorization form that, upon being signed by an obligor, authorizes the State Disbursement Unit to debit the obligor's financial institution account periodically in an amount equal to the amount of the child support obligation.
- 2) The Department shall, upon adoption, inform each financial institution conducting business in this State that the child support enforcement debit authorization form has been adopted and is ready for use.

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

p) Other Remedies

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

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 160.77 Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies (Repealed)**

- a) ~~Pursuant to routine data-sharing agreements, the Department may receive from State licensing agencies information relating to license applications and renewals for purposes of identifying responsible relatives who are delinquent in complying with a support order or who have failed to comply with a subpoena or warrant in a paternity or child support hearing and have or are applying for a license or renewal of a license.~~
- b) ~~The Department shall certify to State licensing agencies past due support owed by a responsible relative under a support order entered by a court or administrative~~

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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~~body of this or any other state or failure to comply with a subpoena or warrant when the responsible relative has or is applying for a license.~~

- e) ~~The Department and the State licensing agency shall provide the responsible relative with a joint notice of intended action prior to the Department certifying the past due support information or failure to comply with a subpoena or warrant to the agency. The notice and any hearing shall be governed by 89 Ill. Adm. Code 104.200.~~
- d) ~~The Department shall be stayed from certifying information to a State licensing agency until a final administrative decision has been made by the Department.~~
- e) ~~The responsible relative can prevent certification and disciplinary action by payment in full of the past due support amount or by entering into a payment plan acceptable to the Department. Factors for an acceptable payment plan will include but are not limited to:~~
  - 1) ~~the amount of past due child support owed;~~
  - 2) ~~the amount of current child support obligations being paid; and~~
  - 3) ~~the individual's ability to pay.~~
- f) ~~The responsible relative can prevent certification and disciplinary action by complying with the subpoena or warrant in the paternity or child support proceeding.~~

(Source: Repealed at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: STAR Bonds
- 2) Code Citation: 86 Ill. Adm. Code 4000
- 3) 

| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
|-------------------------|-------------------------|
| 4000.101                | New Section             |
| 4000.105                | New Section             |
| 4000.110                | New Section             |
| 4000.201                | New Section             |
| 4000.205                | New Section             |
| 4000.301                | New Section             |
| 4000.305                | New Section             |
| 4000.310                | New Section             |
| 4000.315                | New Section             |
- 4) Statutory Authority: 50 ILCS 470
- 5) A Complete Description of the Subjects and Issues Involved: Implements provisions of the Innovation Development and Economy Act (PA 96-939) regarding applications to the Illinois Department of Revenue by a municipality or county for approval of STAR bond districts and STAR bond projects.
- 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 rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

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13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking would apply to any municipality (and the small businesses and not-for-profit corporations in and near that municipality) that has an "eligible area," as defined in the Act, eligible for designation as a STAR bond district. In addition to other criteria, to be eligible, the land must (i) be not less than 250 nor more than 500 acres, (ii) be adjacent to a federal interstate highway; (iii) be within one mile of 2 State highways, (iv) be within one mile of an entertainment user, or a major or minor league sports stadium or other similar entertainment venue that had an initial capital investment of at least \$20,000,000; and (v) include land that was previously surface or strip mined.
- B) Reporting, bookkeeping or other procedures required for compliance: To apply for this voluntary program, a municipality must meet the application requirements set forth in the rules.
- C) Types of professional skills necessary for compliance: Municipalities wishing to participate must prepare an application meeting the requirements set forth in the rules.

14) Regulatory Agenda on which this rulemaking was summarized: Public Act 96-939, on which these rules are based, became law on June 24, 2010, so the rulemaking was unable to be included on the July 2010 regulatory agenda.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULES

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

PART 4000  
STAR BONDS

SUBPART A: PURPOSE, DEFINITIONS AND CONFIDENTIALITY

- Section
- 4000.101 Purpose
- 4000.105 Definitions
- 4000.110 Confidentiality

SUBPART B: STAR BOND DISTRICT

- Section
- 4000.201 Application for Approval of STAR Bond District
- 4000.205 General Restrictions on STAR Bond Districts

SUBPART C: STAR BOND PROJECT

- Section
- 4000.301 Feasibility Study
- 4000.305 STAR Bond Project Plan
- 4000.310 Application for Approval of STAR Bond Project
- 4000.315 Bond Issuance

AUTHORITY: Implementing the Innovation Development and Economy Act [50 ILCS 470].

SOURCE: Adopted at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: PURPOSE, DEFINITIONS AND CONFIDENTIALITY

**Section 4000.101 Purpose**

*The purpose of the Act is to promote, stimulate, and develop the general and economic welfare of the State of Illinois and its communities and to assist in the development and redevelopment of major tourism, entertainment retail and related destination projects within eligible areas of the*

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*State, thereby creating new jobs, stimulating significant capital investment and promoting the general welfare of the citizens of this State, by authorizing municipalities and counties to issue sales tax and revenue (STAR) bonds for the financing of STAR bond projects, and to otherwise exercise the powers and authorities granted to municipalities. It is further found and declared to be the policy of the State, in the interest of promoting the health, safety, morals and general welfare of all the people of the State, to provide incentives to create new job opportunities and to promote major tourism, entertainment, retail and related destination projects within the State.* [50 ILCS 470/5] The purpose of the Act is economic development and the creation of jobs in STAR Bond districts and in the surrounding region. In keeping with the stated purpose of the Act - to stimulate the economy through the infusion of State and local sales tax revenues to the project – the Department of Revenue sets forth in this Part clear guidance and expectations for applicants to assure that the job creation and economic development promises in the Act flow to the citizens of Illinois.

**Section 4000.105 Definitions**

The following definitions are applicable to this Part and derived from Section 10 of the Act.

" Act" means the Innovation Development and Economy Act [50 ILCS 470].

*"Adverse impacts"* means the negative effect of the proposed STAR bond project on existing businesses and units of local government within the market area and includes, but is not limited to, any negative effects on local, regional and State employment, including displacement; any negative effect on the local, regional and State economies; any negative effect on sales and income tax revenue; any negative effect on local vacancy rates for all property in the market area similar to property that is proposed to be developed in the STAR bonds district; and any negative environmental impact.

"Applicant" means a political subdivision that applies to the Illinois Department of Revenue for approval of a STAR bond district or STAR bond project.

*"Base year"* means the calendar year immediately prior to the calendar year in which the STAR bond district is established.

*"Department"* means the Illinois Department of Revenue.

*"Destination hotel"* means a hotel (as that term is defined in Section 2 of the Hotel Operators' Occupation Tax Act) complex having at least 150 guest rooms and that

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*also includes a venue for entertainment attractions, rides, or other activities oriented toward the entertainment and amusement of its guests and other patrons.*

*"Destination user" means an owner, operator, licensee, co-developer, subdeveloper or tenant:*

*that operates a business within a STAR bond district that is a retail store having at least 150,000 square feet of sales floor area;*

*that at the time of opening does not have another Illinois location within a 70 mile radius;*

*that has an annual average of not less than 30% of customers who travel from at least 75 miles away or from out-of-state, as demonstrated by data from a comparable existing store or stores, or, if there is no comparable existing store, as demonstrated by an economic analysis that shows that the proposed retailer will have an annual average of not less than 30% of customers who travel from at least 75 miles away or from out-of-state who would not have traveled without the presence of the destination user; and*

*that makes an initial capital investment, including project costs and other direct costs, of not less than \$30,000,000 for the retail store.*

*"Director" means the Director of Revenue, who shall consult with the Director of Commerce and Economic Opportunity in any approvals or decisions required by the Director under the Act.*

*"Economic Impact Study" means a study conducted by an independent economist to:*

*project the financial benefit of the proposed STAR bond project to the local, regional and State economies,*

*consider the proposed adverse impacts on similar projects and businesses, as well as municipalities within the projected market area, and*

*draw conclusions about the net effect of the proposed STAR bond project on the local, regional, and State economies.*

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*"Eligible area" means any improved or vacant area that:*

*is contiguous and is not, in the aggregate, less than 250 acres nor more than 500 acres that must include only parcels of real property directly and substantially benefited by the proposed STAR bond district plan,*

*is adjacent to a federal interstate highway,*

*is within one mile of 2 State highways,*

*is within one mile of an entertainment user, or a major or minor league sports stadium or other similar entertainment venue that had an initial capital investment of at least \$20,000,000, and*

*includes land that was previously surface or strip mined.*

*The area may be bisected by streets, highways, roads, alleys, railways, bike paths, streams, rivers, and other waterways and still be deemed contiguous. In addition, in order to constitute an eligible area, one of the following requirements must be satisfied and all of which are subject to the review and approval of the Director as provided in Section 4000.201(b):*

*the governing body of the political subdivision shall have determined that the area meets the requirements of a "blighted area" as defined under the Tax Increment Allocation Redevelopment Act; or*

*the governing body of the political subdivision shall have determined that the area is a blighted area as determined under the provisions of Section 11-74.3-5 of the Illinois Municipal Code (the Business District Development and Redevelopment Law); or*

*the governing body of the political subdivision shall make the following findings:*

*that the vacant portions of the area have remained vacant for at least one year, or that any building located on a vacant portion of the property was demolished within the last year and that the*

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*building would have qualified under the paragraph immediately below;*

*if portions of the area are currently developed, that the use condition, and character of the buildings on the property are not consistent with the purposes set forth in Section 5 of the Act;*

*that the STAR bond district is expected to create or retain job opportunities within the political subdivision;*

*that the STAR bond district will serve to further the development of adjacent areas;*

*that without the availability of STAR bonds, the projects described in the STAR bond district plan would not be possible;*

*that the master developer meets high standards of creditworthiness and financial strength as demonstrated by one or more of the following: corporate debenture ratings of BBB or higher by Standard & Poor's Corporation or Baa or higher by Moody's Investors Service, Inc.; a letter from a financial institution with assets of \$10,000,000 or more attesting to the financial strength of the master developer; or specific evidence of equity financing for not less than 10% of the estimated total STAR bond project costs;*

*that the STAR bond district will strengthen the commercial sector of the political subdivision;*

*that the STAR bond district will enhance the tax base of the political subdivision; and*

*that the formation of a STAR bond district is in the best interest of the political subdivision.*

*"Entertainment user" means an owner, operator, licensee, co-developer subdeveloper, or tenant that operates a business within a STAR bond district that has a primary use of providing a venue for entertainment attractions, rides or*

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*other activities oriented toward the entertainment and amusement of its patrons, occupies at least 20 acres of land in the STAR bond district, and makes an initial capital investment, including project costs and other direct and indirect costs, of not less than \$25,000,000 for that venue.*

"*Feasibility study*" means and includes all of the elements of the feasibility study set forth in Section 4000.301.

"*Financial benefit*" means the positive effect of the proposed STAR bond project on existing businesses and units of local government within the market area and includes, but is not limited to, any positive effects on local, regional and State employment; any positive effect on the local, regional and State economies; any positive effect on sales and income tax receipts; and any positive effect on local vacancy rates for all property in the market area similar to property that is proposed to be developed in the STAR bonds district.

"*Job*" means a full-time permanent equivalent, direct job.

"*Local economy*" means the economy of the political subdivision in which the STAR bond project is proposed.

"*Local sales taxes*" means any locally imposed taxes received by a municipality, county, or other local governmental entity arising from sales by retailers and servicemen within a STAR bond district, including business district sales taxes and STAR bond occupation taxes, and that portion of the net revenue realized under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act from transactions at places of business located within a STAR bond district that is deposited into the Local Government Tax Fund and the County and Mass Transit District Fund. For the purpose of the Act, "local sales taxes" does not include any taxes authorized pursuant to the Local Mass Transit District Act, the Metro-East Park and Recreation District Act, or the Flood Prevention District Act for so long as the applicable taxing district does not impose a tax on real property or county school facility occupation taxes imposed pursuant to Section 5-1006.7 of the Counties Code. This means that, except as otherwise provided in this definition, local sales taxes include any locally imposed sales taxes in addition to the 1.25% portion of the 6.25% State-imposed sales tax on general merchandise and the 1% State imposed sales tax on qualifying food, drugs and medical appliances.

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*"Local sales tax increment" means, with respect to local sales taxes administered by the Illinois Department of Revenue, all of the local sales tax paid by destination users, destination hotels and entertainment users that is in excess of the local sales tax paid by destination users, destination hotels and entertainment users for the same month in the base year, as determined by the Illinois Department of Revenue; in the case of a municipality forming a STAR bond district that is wholly within the corporate boundaries of the municipality and in the case of a municipality and county forming a STAR bond district that is only partially within a municipality, that portion of the local sales tax paid by taxpayers that are not destination users, destination hotels or entertainment users that is in excess of the local sales tax paid by taxpayers that are not destination users, destination hotels, or entertainment users for the same month in the base year, as determined by the Illinois Department of Revenue; and in the case of a county in which a STAR bond district is formed that is wholly within a municipality, that portion of the local sales tax paid by taxpayers that are not destination users, destination hotels or entertainment users that is in excess of the local sales tax paid by taxpayers that are not destination users, destination hotels or entertainment users for the same month in the base year, as determined by the Illinois Department of Revenue, but only if the corporate authorities of the county adopt an ordinance, and files a copy with the Department within the same time frames as required for STAR bond occupation taxes under Section 31, that designates the taxes referenced in this clause as part of the local sales tax increment under the Act. As indicated in the previous clause, if a STAR bond district is formed that is wholly within the boundaries of a municipality, then in order for the proceeds of a county-imposed sales tax or a county's 0.25% share of the 6.25% State-imposed sales tax that is generated in the STAR bond district by taxpayers that are not destination users, destination hotels or entertainment users to be considered as part of the "local sales tax increment", the corporate authorities of the county must adopt an ordinance that designates these tax revenues as part of the local sales tax increment and file a certified copy of that ordinance with the Illinois Department of Revenue on or before April 1 for implementation on the following July 1 or on or before October 1 for implementation on the following January 1. Otherwise, those sales tax revenues will continue to be allocated and distributed by the Department as otherwise directed by the statute as if there were no STAR bond district.*

*"Market study" means a study to determine the ability of the proposed STAR bond project to gain market share locally and regionally and to remain profitable past the term of repayment of STAR bonds.*

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*"Master developer" means a developer cooperating with a political subdivision to plan, develop and implement a STAR bond project plan for a STAR bond district. Subject to the limitations of Section 25 of the Act, the master developer may work with and transfer certain development rights to other developers for the purpose of implementing STAR bond project plans and achieving the purposes of the Act. A master developer for a STAR bond district shall be appointed by a political subdivision in the resolution establishing the STAR bond district, and the master developer must, at the time of appointment, own or have control of, through purchase agreements, option contracts or other means, not less than 50% of the acreage within the STAR bond district and the master developer or its affiliate must have ownership or control on June 1, 2010.*

*"Master development agreement" means an agreement between the master developer and the political subdivision to govern a STAR bond district and any STAR bond projects.*

*"New job" means a full-time permanent equivalent, direct job, after accounting for displacement.*

*"Pledged STAR revenues" means those sales tax and revenues and other sources of funds pledged to pay debt service on STAR bonds or to pay project costs pursuant to Section 30 of the Act. Notwithstanding any provision to the contrary, the following revenues shall not constitute pledged STAR revenues or be available to pay principal and interest on STAR bonds: any State sales tax increment or local sales tax increment from a retail entity initiating operations in a STAR bond district while terminating operations at another Illinois location within 25 miles of the STAR bond district. For purposes of this definition, "terminating operations" means a closing of a retail operation that is directly related to the opening of the same operation, or like retail entity owned or operated by more than 50% of the original ownership, in a STAR bond district within one year before or after initiating operations in the STAR bond district, but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality (or county if the retail operation is not located within a municipality) in which the terminated operations were located that the closed location contained inadequate space, had become economically obsolete or was no longer a viable location for the retailer or serviceman.*

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*"Political subdivision" means a municipality or county that undertakes to establish a STAR bond district pursuant to the provisions of the Act.*

*"Project Costs" means and includes the sum total of all costs incurred or estimated to be incurred on or following the date of establishment of a STAR bond district that are reasonable or necessary to implement a STAR bond district plan or any STAR bond project plans, or both, including costs incurred for public improvements and private improvements that serve the public purposes set forth in Section 5 of the Act. Those costs include without limitation the following:*

*costs of studies, surveys, development of plans and specifications, formation, implementation, and administration of a STAR bond district, STAR bond district plan, any STAR bond projects or any STAR bond project plans, including, but not limited to, staff and professional service costs for architectural, engineering, legal, financial, planning or other services, provided however that no charges for professional services may be based on a percentage of the tax increment collected and no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years;*

*property assembly costs, including, but not limited to, acquisition of land and other real property or rights or interests in that property, located within the boundaries of a STAR bond district, demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to, parking lots and other concrete or asphalt barriers, the clearing and grading of land, and importing additional soil and fill materials, or removal of soil and fill materials from the site;*

*subject to the provisions of the 3<sup>rd</sup> following paragraph concerning costs of the design and construction of infrastructure and public works, costs of buildings and other vertical improvements that are located within the boundaries of a STAR bond district and owned by a political subdivision or other public entity, including without limitation police and fire stations, educational facilities and public restrooms and rest areas;*

*costs of buildings and other vertical improvements that are located within the boundaries of a STAR bond district and owned by a destination user or*

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*destination hotel; except that only 2 destination users in a STAR bond district and one destination hotel are eligible to include the cost of those vertical improvements as project costs;*

*costs of buildings; rides and attractions, which include carousels, slides, roller coasters, displays, models, towers, works of art and similar theme and amusement park improvements; and other vertical improvements that are located within the boundaries of a STAR bond district and owned by an entertainment user; except that only one entertainment user in a STAR bond district is eligible to include the cost of those vertical improvements as project costs;*

*costs of the design and construction of infrastructure and public works located within the boundaries of a STAR bond district that are reasonable or necessary to implement a STAR bond district plan or any STAR bond project plans, or both, except that project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building unless the political subdivision makes a reasonable determination in a STAR bond district plan or any STAR bond project plans, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the STAR bond district plan or any STAR bond project plans;*

*costs of the design and construction of the following improvements located outside the boundaries of a STAR bond district, provided that the costs are essential to further the purpose and development of a STAR bond district plan and either are part of and connected to sewer, water, or utility service lines that physically connect to the STAR bond district or are significant improvements for adjacent offsite highways, streets, roadways and interchanges that are approved by the Illinois Department of Transportation. No other cost of infrastructure and public works improvements located outside the boundaries of a STAR bond district may be deemed project costs;*

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*costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within a STAR bond district;*

*financing costs, including, but not limited to, all necessary and incidental expenses related to the issuance of obligations and that may include payment of interest on any obligations issued including interest accruing during the estimated period of construction of any improvements in a STAR bond district or any STAR bond projects for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related to that financing;*

*to the extent the political subdivision by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from a STAR bond district or STAR bond projects necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of a STAR bond district plan or STAR bond project plans;*

*interest cost incurred by a developer for project costs related to the acquisition, formation, implementation, development, construction and administration of a STAR bond district, STAR bond district plan, STAR bond projects or any STAR bond project plans provided that:*

*payment of interest costs in any one year may not exceed 30% of the annual interest costs incurred by the developer with regard to the STAR bond district or any STAR bond projects during that year; and*

*the total of interest payments paid pursuant to the Act may not exceed 30% of the total cost paid or incurred by the developer for a STAR bond district or STAR bond projects, plus project costs, excluding any property assembly costs incurred by a political subdivision pursuant to the Act;*

*costs of common areas located within the boundaries of a STAR bond district;*

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*costs of landscaping and plantings, retaining walls and fences, man-made lakes and ponds, shelters, benches, lighting and similar amenities located within the boundaries of a STAR bond district;*

*costs of mounted building signs, site monument and pylon signs located within the boundaries of a STAR bond district; or*

*if included in the STAR bond district plan and approved in writing by the Director, salaries or a portion of salaries for local government employees to the extent the same are directly attributable to the work of those employees on the establishment and management of a STAR bond district or any STAR bond projects.*

*Except as specified in the preceding paragraphs, "project costs" shall not include:*

*the cost of construction of buildings that are privately owned or owned by a municipality and leased to a developer or retail user for non-entertainment retail uses;*

*moving expenses for employees of the businesses locating within the STAR bond district;*

*property taxes for property located in the STAR bond district;*

*lobbying costs; and*

*general overhead or administrative costs of the political subdivision that would still have been incurred by the political subdivision if the political subdivision had not established a STAR bond district.*

*"Projected market area" means any area within the State in which a STAR bond district or STAR bond project is projected to have a significant fiscal or market impact as determined by the Director.*

*"Regional economy" means the market area surrounding the STAR bond district located within Illinois, as determined by the economist preparing the economic impact study and the feasibility consultants preparing the feasibility study.*

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*"STAR bond" means a sales tax and revenue bond, note, or other obligation payable from pledged STAR revenues and issued by a political subdivision, the proceeds of which shall be used only to pay project costs as defined in the Act.*

*"STAR bond district" means the specific area declared to be an eligible area as determined by the political subdivision, and approved by the Director, in which the political subdivision may develop one or more STAR bond projects.*

*"STAR bond district plan" means the preliminary or conceptual plan that generally identifies the proposed STAR bond project areas and identifies in a general manner the buildings, facilities, and improvements to be constructed or improved in each STAR bond project area.*

*"STAR bond project" means a project within a STAR bond district that is approved pursuant to Section 20 of the Act.*

*"STAR bond project area" means the geographic area within a STAR bond district in which there may be one or more STAR bond projects.*

*"STAR bond project plan" means the written plan adopted by a political subdivision for the development of a STAR bond project in a STAR bond district; the plan may include, but is not limited to, project costs incurred prior to the date of the STAR bond project plan and estimated future STAR bond project costs; proposed sources of funds to pay those costs; the nature and estimated term of any obligations to be issued by the political subdivision to pay those costs; the most recent equalized assessed valuation of the STAR bond project area; an estimate of the equalized assessed valuation of the STAR bond district or applicable project area after completion of a STAR bond project; a general description of the types of any known or proposed developers, users or tenants of the STAR bond project or projects included in the plan; a general description of the type, structure and character of the property or facilities to be developed or improved; a description of the general land uses to apply to the STAR bond project; and a general description or an estimate of the type, class and number of employees to be employed in the operation of the STAR bond project.*

*"State sales tax" means all of the net revenue realized under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act from transactions at places of business located within a STAR bond district, excluding that portion of the net revenue realized under the*

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*Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act from transactions at places of business located within a STAR bond district that is deposited into the Local Government Tax Fund and the County and Mass Transit District Fund.*

*"State sales tax increment" means:*

*100% of the State sales tax that is in excess of the State sales tax for the same month in the base year from transactions at up to 2 destination users, one destination hotel and one entertainment user located within a STAR bond district, which destination users, destination hotel and entertainment user shall be designated by the master developer and approved by the political subdivision and the Director in conjunction with the applicable STAR bond project approval; for example, if there were no destination users, destination hotels or entertainment users open in the base year in the area that becomes a STAR bond district, then the sales tax in the base year generated by these types of entities would be zero and the increment would equal the entire amount generated by these designated entities after the STAR bond district is created and these designated entities become operational; and*

*25% of the State sales tax that is in excess of the State sales tax for the same month in the base year from all other transactions within a STAR bond district.*

*If any portion of State sales taxes are, at the time of formation of a STAR bond district, already subject to tax increment financing under the Tax Increment Allocation Redevelopment Act, then the State sales tax increment for the portion shall be frozen at the base year established in accordance with the Act, and all future incremental increases shall be included in the State sales tax increment under the Act. Any party otherwise entitled to receipt of incremental State sales tax revenues through an existing tax increment financing district shall be entitled to continue to receive those revenues up to the amount frozen in the base year. Nothing in the Act shall affect the prior qualification of existing redevelopment project costs incurred that are eligible for reimbursement under the Tax Increment Allocation Redevelopment Act. In that event, prior to approving a STAR bond district, the political subdivision forming the STAR bond district shall take such action as is necessary, including amending the existing tax increment financing district redevelopment plan, to carry out the provisions of the Act.*

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*"Substantial change" means a change wherein the proposed STAR bond project plan differs substantially in size, scope or use from the approved STAR bond district plan or STAR bond project plan. If a destination user, destination hotel or entertainment user has been approved as part of a district plan or project plan, then any proposal to change to a different destination user, destination hotel or entertainment user is a substantial change. Any substantial changes to a STAR bond project plan as adopted shall be subject to a public hearing following publication of notice in a newspaper of general circulation in the political subdivision and approval by resolution of the governing body of the political subdivision. [50 ILCS 470/20(i)] In accordance with the purpose of the Act, which includes encouraging true destination development, any proposal to change to a different destination user, destination hotel, or entertainment user must not take place unless it is also approved by the Director.*

*"Total development costs" means the aggregate public and private investment in a STAR bond district, including project costs and other direct and indirect costs related to the development of the STAR bond district.*

*"Traditional retail use" means the operation of a business that derives at least 90% of its annual gross revenue from sales at retail, as that phrase is defined by Section 1 of the Retailers' Occupation Tax Act, but does not include the operations of destination users, entertainment users, restaurants, hotels, retail uses within hotels or any other non-retail uses.*

*"Vacant" means that portion of the land in a proposed STAR bond district that is not occupied by a building, facility or other vertical improvement.*

**Section 4000.110 Confidentiality**

With respect to the application for approval by the Department of a STAR bond district or project, trade secrets and commercial or financial information obtained from a person or business by the Department, the feasibility consultant, the independent economist or any other consultant commissioned to perform the studies and other analysis under the Act shall be exempt from disclosure if the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business.

## SUBPART B: STAR BOND DISTRICT

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED RULES

**Section 4000.201 Application for Approval of STAR Bond District**

- a) *Upon adoption of the resolution to establish a STAR bond district, the political subdivision shall submit the proposed STAR bond district to the Director for consideration.*
- b) *The Director may only approve a STAR bond district if the Director makes all of the findings in this subsection (b).*
  - 1) *The proposed STAR bond district is an eligible area.*
  - 2) *The STAR bond district plan includes a projected capital investment of at least \$100,000,000. The projected capital investment identified to meet the requirements of this subsection (b)(2) must consist only of private capital investment.*
  - 3) *The STAR bond district plan is reasonably projected to produce at least \$100,000,000 of annual gross sales revenues and 500 new jobs. With respect to the annual gross sales revenues provision, the applicant must demonstrate that the plan is reasonably projected to produce at least \$100,000,000 in annual gross sales revenues from sales of tangible personal property, ticket sales, entry fees, hotel room rentals and other products or services sold within the district. Gross sales revenues generated from sales within the district that represent sales displaced from outside of the district do not count toward the \$100,000,000 gross sales revenues requirement.*
  - 4) *The STAR bond district plan includes potential destination users and a potential entertainment user. The applicant must generally identify such potential destination users and entertainment user and must include information that substantiates that the potential destination and entertainment users are anticipated to meet the requirements of the Act to be designated as destination or entertainment users.*
  - 5) *The creation of the STAR bond district and STAR bond district plan are in accordance with the purpose of the Act and the public interest.*

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- 6) *The STAR bond district and STAR bond district plan meet any other requirement that the Director deems appropriate, [50 ILCS 470/15(d)] including, but not limited to the items listed in this subsection (b)(6). The application must:*
- A) demonstrate that the district will satisfy the purpose of the Act by creating a true "destination" development;
  - B) include the proposed sources of financing for the district and any projects in the district;
  - C) identify any person or entity that holds at least a 5% financial interest in the appointed master developer for the STAR bond district;
  - D) identify any person or entity that holds at least a 5% financial interest in any parcel of real property within the STAR bond district, and identify how much real property in the district that person or entity holds and what percentage of all real property in the district that real property represents;
  - E) explain the relationship, if any, between the master developer and the owner of any parcel of real property in the district if they are not the same;
  - F) describe the extent of the benefit to the STAR bond district of any Tax Increment Financing (TIF) district in which the STAR bond district is located, if located in or partially in a TIF district, as well as any other government incentive being provided to or sought by the master developer;
  - G) provide proof that, except as otherwise provided in this subsection (b)(6)(G) and the Act, all of the local sales tax increment has been irrevocably pledged as pledged STAR revenues;
    - i) Exception: Any local sales tax revenues pledged to pay debt service on municipal bonds issued prior to the effective date of the Act are not required to be included as pledged STAR revenues;

## DEPARTMENT OF REVENUE

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- ii) Exception: If a STAR bond district is formed that is wholly within the boundaries of a municipality, then in order for the proceeds of a county-imposed sales tax or a county's 0.25% share of the 6.25% State-imposed sales tax that is generated in the STAR bond district by taxpayers that are not destination users, destination hotels or entertainment users to be considered as pledged STAR revenues, the corporate authorities of the county must adopt an ordinance that designates these tax revenues as part of the local sales tax increment and file a certified copy of that ordinance with the Illinois Department of Revenue in accordance with the Act;
- iii) Exception: The pledge of STAR Bond occupation taxes imposed under Section 31 of the Act as pledged STAR revenues is subject to the specific provisions of the Act.

**Section 4000.205 General Restrictions on STAR Bond Districts**

*STAR bond districts may lie within an enterprise zone, but no portion of a STAR bond project shall be financed with funds allocated pursuant to the Illinois Enterprise Zone Act. STAR bond districts may overlay and benefit from existing tax increment financing districts created pursuant to the Tax Increment Allocation Redevelopment Act, but no portion of a STAR bond project shall be financed with tax increment financing under the Act. During any period of time that STAR bonds are outstanding for a STAR bond district, a developer may not use any land located in the STAR bond district for any retail store whose primary business is the sale of automobiles, including trucks and other automotive vehicles with 4 wheels designed for passenger transportation on public streets and thoroughfares or multi-screen motion picture theater complexes containing more than 12 auditoriums for viewing motion pictures. No STAR bond district may contain more than 900,000 square feet of floor space devoted to traditional retail use.*[50 ILCS 470/45]

## SUBPART C: STAR BOND PROJECT

**Section 4000.301 Feasibility Study**

- a) *Any political subdivision considering a STAR bond project within a STAR bond district shall notify the Department, which shall cause to be prepared an*

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*independent feasibility study by a feasibility consultant with certified copies provided to the political subdivision, the Director and the Department of Commerce and Economic Opportunity. The feasibility consultant, along with the independent economist and any other consultants commissioned to perform the studies and other analysis required by the feasibility study, shall be selected by the Director with the approval of the political subdivision. The consultants shall be retained by the Director and the Department shall be reimbursed by the master developer for the costs to retain the consultants. The request for proposal issued under the Illinois Procurement Code by the Director shall provide that any consultant retained under this provision must be from a nationally recognized firm. The feasibility study shall include all of the following:*

- 1) *the estimated amount of pledged STAR revenues expected to be collected in each year through the maturity date of the proposed STAR bonds;*
- 2) *a statement of how the jobs and taxes obtained from the STAR bond project will contribute significantly to the economic development of the State and region;*
- 3) *visitation expectations;*
- 4) *the unique quality of the project;*
- 5) *an economic impact study;*
- 6) *a market study;*
- 7) *integration and collaboration with other resources or businesses;*
- 8) *the quality of service and experience provided, as measured against national consumer standards for the specific target market;*
- 9) *project accountability, measured according to best industry practices;*
- 10) *the expected return on State and local investment that the STAR bond project is anticipated to produce, and*
- 11) *an anticipated principal and interest payment schedule on the STAR bonds. [50 ILCS 470/20(b)]*

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- b) In order to properly complete the feasibility study, the political subdivision and the master developer shall cooperate fully with the consultants so that they have full access to the necessary financial and other data of the political subdivision, the master developer and the proposed tenants of the STAR bond project.

**Section 4000.305 STAR Bond Project Plan**

*After the establishment of a STAR bond district, the master developer may propose one or more STAR bond projects to a political subdivision and the master developer shall, in cooperation with the political subdivision, prepare a STAR bond project plan in consultation with the planning commission of the political subdivision, if any. [50 ILCS 470/20(a)] The STAR bond project plan may be implemented in separate development stages. If the political subdivision determines the STAR bond project is feasible, the STAR bond project plan shall include:*

- a) *a summary of the feasibility study;*
- b) *a reference to the STAR bond district plan that identifies the STAR bond project area that is set forth in the STAR bond project plan that is being considered;*
- c) *a legal description and map of the STAR bond project area to be developed or redeveloped;*
- d) *a description of the buildings and facilities proposed to be constructed or improved in the STAR bond project area, including destination users and an entertainment user, as applicable; the plan must include cost information at a level of detail sufficient to conduct the studies required under the Act;*
- e) *a copy of letters of intent to locate within the STAR bond district signed by both the master developer and the appropriate corporate officer of at least one destination user for the first STAR bond project proposed within the district;*
  - 1) If the first STAR bond project includes more than one destination user, or includes a destination hotel or entertainment user, a letter of intent must be secured for each destination user as well as the proposed destination hotel and entertainment user;

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- 2) To meet the requirements of this provision, the letter of intent must evidence a binding commitment to enter into good faith negotiations to locate within the STAR bond district;
- f) *any other information the governing body of the political subdivision deems reasonable and necessary to advise the public of the intent of the STAR bond project plan.* [50 ILCS 470/20(c)]

**Section 4000.310 Application for Approval of STAR Bond Project**

*Before a political subdivision may hold a public hearing to consider a STAR bond project plan, the political subdivision must apply to the Department for approval of the STAR bond project plan. The Director shall either approve or deny the STAR bond project plan based on the criteria in this Section.*

- a) *An application for approval of a STAR bond project plan must not be approved unless all of the components of the feasibility study set forth in Section 4000.301(a)(1) – (11) have been completed and submitted to the Department for review.*
- b) *The Director must review all of the elements of the STAR bond project plan required under Section 4000.305, which must be included in the application (which plan must include a letter or letters of intent as required under Section 4000.305(e) in order to receive Director approval).*
- c) *The Director must review the feasibility study and consider all of the components of the feasibility study set forth in Section 4000.301(a)(1) – (11), including without limitation the economic impact study and the financial benefit of the proposed STAR bond project to the local, regional and State economies, the proposed adverse impacts on similar businesses and projects as well as municipalities within the market area, and the net effect of the proposed STAR bond project on the local, regional and State economies.*
- d) *In addition to the economic impact study, the political subdivision must also submit to the Department, as part of its application, the financial and other information that substantiates the basis for the conclusion of the economic impact study, in the form and manner as required by the Department, so that the Department can verify the results of the study. All documentation submitted as*

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part of or in support of the application must be submitted in electronic format, if applicable.

- e) *In addition to any other criteria in this subsection, to approve the STAR bond project plan, the Director must be satisfied that the proposed destination user is in fact a true destination user.*
- f) *The Director must also find that the STAR bond project plan is in accordance with the purpose of this Act and the public interest. [50 ILCS 470/20(d)] In the interest of full disclosure and to ensure protection of the public interest, the applicant must also submit the following as part of the application:*
  - 1) The corporate name and address of each destination user, destination hotel and entertainment user;
  - 2) The owners of each destination user, destination hotel and entertainment user that hold at least a 5% ownership interest, and the name and address of the officers of each destination user, destination hotel and entertainment user;
  - 3) The corporate name and address of any other proposed tenant in the STAR bond project;
  - 4) Disclosure of any interest held by the master developer or any co-developer or subdeveloper or an affiliate of the master developer or any co-developer or subdeveloper that may create a conflict of interest with respect to contracting for the development; and
  - 5) Explanation of the procedures the applicant has in place to help prevent development costs from exceeding cost estimates, as well as the procedures in place to address any cost overruns that might occur.
- g) The applicant must provide a copy of the rules and procedures it has in place governing the procurement process the master developer or any co-developer or subdeveloper must use to complete the STAR bond project in a cost effective, fair and equitable manner.

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- h) The applicant must provide proof that all of the local sales tax increment has been irrevocably pledged as pledged STAR revenues as provided in the Act and Section 4000.201(b)(6)(G).
- i) Supplemental information. If information or documentation is missing or insufficient, the Director shall notify the applicant that the information or documentation must be submitted before an approval or denial will be issued.

**Section 4000.315 Bond Issuance**

The feasibility study performed as part of the Act must be included as part of the prospectus for the issuance of any STAR bonds.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Electrologist Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1246
- 3) 

|                         |                        |
|-------------------------|------------------------|
| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
| 1246.40                 | Amendment              |
| 1246.50                 | Amendment              |
| 1246.70                 | Amendment              |
| 1246.80                 | Amendment              |
- 4) Statutory Authority: Electrologist Licensing Act [225 ILCS 412]
- 5) Effective Date of Amendments: October 25, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: July 30, 2010; 34 Ill. Reg. 10624
- 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? No changes were necessary.
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Provides that licensees are not required to complete continuing education (CE) for the first license renewal after issuance of the original license. Previous rule language only addressed the 2008 license renewals and not subsequent renewals. This rulemaking clarifies that all licensees are exempt from CE requirements for their first license renewal. The fee for restoring a lapsed license is also

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

increased due to the considerable time and resources involved in processing licensure restoration applications.

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

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 3<sup>rd</sup> 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 1246

## ELECTROLOGIST LICENSING ACT

## Section

|          |  |
|----------|--|
| 1246.10  | Qualifications for Licensure                           |
| 1246.20  | Examination  |
| 1246.30  | Application for Licensure by Acceptance of Examination |
| 1246.40  | Fees   |
| 1246.50  | Endorsement  |
| 1246.60  | Standards of Sterilization and Sanitation              |
| 1245.70  | Continuing Education                                   |
| 1246.80  | Renewals   |
| 1246.90  | Restoration  |
| 1246.100 | Inactive Status  |
| 1246.105 | Granting Variances                                     |
| 1246.110 | Dishonorable, Unethical or Unprofessional Conduct      |

AUTHORITY: Implementing the Electrologist Licensing Act [225 ILCS 412] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 29 Ill. Reg. 3873, effective February 22, 2005; amended at 29 Ill. Reg. 18815, effective November 4, 2005; amended at 34 Ill. Reg. 16964, effective October 25, 2010.

**Section 1246.40 Fees**

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

- a) Application Fees.  
The fee for application for a license as an electrologist is calculated at \$125.
- b) Renewal Fees.  
The fee for the renewal of a license as an electrologist shall be calculated at \$62.50 per year.
- c) Examination.

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Applicants for examination shall be required to pay, either to the Division or to the designated testing service, a fee covering the cost of the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.

- d) General Fees.
- 1) The fee for the restoration of a license other than from inactive status is ~~\$50~~\$20 plus payment of all lapsed renewal fees ~~not to exceed \$500~~.
  - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that 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 records when no duplicate license is 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 the certificate.
  - 5) The fee for a roster of persons licensed as electrologists in this State shall be the actual cost of producing the roster.

(Source: Amended at 34 Ill. Reg. 16964, effective October 25, 2010)

**Section 1246.50 Endorsement**

- a) An applicant for licensure as an electrologist who is licensed under the laws of another state shall file an application with the Division that shall include:
- 1) Documentation certifying that applicant meets the education requirements set forth in Section 1246.10(b);
  - 2) Documentation from the jurisdiction of original licensure and the state by which the applicant is currently licensed, stating whether the file on the

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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applicant contains any disciplinary actions taken or pending, and the applicant's license number;

- 3) Proof of successful completion of the examination; and
  - 4) ~~Complete work history; and~~5) The required fee.
- b) The Division shall examine each endorsement application to determine whether the requirements and examination in the jurisdiction at the date of licensing were substantially equivalent to the requirements and examination then in force in this State and whether the applicant has otherwise complied with the Act.
  - c) The Division shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the application.

(Source: Amended at 34 Ill. Reg. 16964, effective October 25, 2010)

**Section 1246.70 Continuing Education**

For the April 2010 renewal and every renewal thereafter, in order to renew a license, the licensee shall be required to complete 30 hours of continuing education. One Continuing Education Unit (CEU) is defined as 10 contact hours of participation in ~~a qualifying an organized~~ continuing education ~~activity~~ experience.

- a) Qualifying continuing education activities are the following:
  - 1) courses offered or approved by the American Electrology Association or its affiliates;
  - 2) courses offered or approved by the Society for Clinical & Medical Hair Removal, Inc.; ~~hospital or medical school sponsored educational offerings; provided the coursework is related to health issues of practitioners; and~~
  - 3) credit-bearing college courses and other post-graduate classes for continuing education credit offered at a regionally accredited academic institution, provided the coursework is in a subject area relevant to ~~clearly related to electrology theory, technical and clinical aspects of~~ electrolysis; ~~electrology research, ethical or legal aspects of practicing electrolysis or health issues of electrologists.~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- 4) [hospital or medical school sponsored educational offerings, provided the subject area is relevant to electrolysis; and](#)
  - 5) [courses from another state that are approved by that state's licensing agency or professional electrology organization, provided the coursework is in a subject area relevant to electrolysis.](#)
- b) Continuing education activities shall meet the following requirements:
- 1) the activity involves face-to-face instruction or a home study program;
  - 2) the provider implements a mechanism to monitor and document physical attendance at such instruction or to verify licensee completion in the case of a home study program;
  - 3) the provider retains written records for a period of 3 years from the participant's actual successful completion of the activity, including but not limited to: content description; instructor; date of activity; location of activity; list of participants; participant's evaluation of instruction presented; and number of contact hours; and
  - 4) the provider issues a certificate of completion after the participant's successful completion of the activity. The certificate shall include the participant's name, provider's name, title or subject area of the activity, date and location of attendance, and number of contact hours completed.
- c) Certification of CE Requirements
- 1) Each renewal applicant shall certify on the renewal application full compliance with CE requirements as stated [in subsections \(a\) and \(b\) above](#).
  - 2) [A renewal applicant is not required to complete continuing education for the first renewal following the issuance of the original license.](#)
  - 3) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance (e.g.,

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certificate of attendance or completion). Evidence shall be required in the context of the ~~Division's~~Department's random audit in accordance with Section 60 of the Act.

- d) Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application along with the required fee, a statement setting forth the facts concerning non-compliance and a request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division finds, from such affidavit or any other evidence submitted, that extreme good cause has been shown for granting a waiver, the Division shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.
  - 2) Extreme hardship shall be determined on an individual basis and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
    - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
    - B) An incapacitating illness documented by a statement from a currently licensed physician;
    - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; and
    - D) Any other similar extenuating circumstance.
  - 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Division.

(Source: Amended at 34 Ill. Reg. 16964, effective October 25, 2010)

**Section 1246.80 Renewals**

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- a) The first renewal date for licensure under the Electrologist Licensing Act [225 ILCS 412] (Act) shall be April 30, 2008. Thereafter, every license issued under the Act shall expire on April 30 of even numbered years. The holder of the license may renew the license during the month preceding the expiration date by paying the required fee and proof of 30 hours of continuing education in accordance with Section 1245.70.
- b) It is the responsibility of each license holder to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee.
- c) Practice on an expired license shall be considered the unlicensed practice of electrology and subject to discipline or other penalties set forth in Section 75 of the Act.
- d) [A renewal applicant is not required to complete continuing education for the first renewal following the issuance of the original license.](#)

(Source: Amended at 34 Ill. Reg. 16964, effective October 25, 2010)

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- 1) Heading of the Part: Podiatric Medical Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1360
- 3) 

|                          |                         |
|--------------------------|-------------------------|
| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
| 1360.60                  | Amendment               |
| 1360.70                  | Amendment               |
- 4) Statutory Authority: Podiatric Medical Practice Act of 1987 [225 ILCS 100]
- 5) Effective Date of Amendments: October 25, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: July 30, 2010; 34 Ill. Reg. 10632
- 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? No changes were necessary.
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Public Act 95-235 was the sunset reauthorization of the Podiatric Medical Practice Act of 1987. A previous rulemaking implemented its provisions, including an increase in the number of continuing education (CE) hours required for license renewal. However, the CE change was not made in the requirements for the restoration of a license (1360.60). This adopted rulemaking corrects that oversight. In addition, changes are being made concerning CE hours that may be earned through non-

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supervised individual activities to greatly increase the options available to licensees for meeting the CE requirement.

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

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

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## TITLE 68: PROFESSIONS AND OCCUPATIONS

## CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

## PART 1360

## PODIATRIC MEDICAL PRACTICE ACT OF 1987

## Section

|                 |  |
|-----------------|--|
| 1360.10         | Statutory Authority (Repealed)   |
| 1360.20         | Approved Colleges of Podiatry  |
| 1360.30         | Application for Examination  |
| 1360.40         | Examination  |
| 1360.45         | Application for Licensure on the Basis of Examination                            |
| 1360.50         | Endorsement  |
| 1360.55         | Renewals   |
| 1360.60         | Restoration  |
| 1360.65         | Temporary Licenses   |
| 1360.70         | Continuing Education   |
| 1360.75         | Visiting Professor Permits   |
| 1360.80         | Definition of "Human Foot" (Repealed)  |
| 1360.85         | Advertising  |
| 1360.86         | Mandatory Reporting of Impaired Podiatric Physicians by Health Care Institutions |
| 1360.90         | Granting Variances   |
| 1360.95         | Dishonorable, Unprofessional and Unethical Conduct Standards                     |
| 1360.APPENDIX A | Curriculum Requirements (Repealed)   |
| 1360.APPENDIX B | Clinical Training Requirements (Repealed)  |

AUTHORITY: Implementing the Podiatric Medical Practice Act of 1987 [225 ILCS 100] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 4 Ill. Reg. 50, p. 58, effective December 3, 1980; codified at 5 Ill. Reg. 11053; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 915, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 8402, effective July 2, 1982; amended at 7 Ill. Reg. 7668, effective June 15, 1983; amended at 9 Ill. Reg. 5377, effective April 4, 1985; transferred from Chapter I, 68 Ill. Adm. Code 360 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1360 (Department of Professional Regulation) pursuant to P.A.

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85-225, effective January 1, 1988, at 12 Ill. Reg. 2962; amended at 13 Ill. Reg. 4234, effective March 21, 1989; amended at 14 Ill. Reg. 701, effective December 28, 1989; amended at 16 Ill. Reg. 13281, effective August 18, 1992; amended at 18 Ill. Reg. 16433, effective October 21, 1994; amended at 20 Ill. Reg. 10692, effective July 26, 1996; amended at 23 Ill. Reg. 12681, effective October 5, 1999; amended at 30 Ill. Reg. 4704, effective March 1, 2006; amended at 33 Ill. Reg. 14111, effective September 28, 2009; amended at 34 Ill. Reg. 16972, effective October 25, 2010.

**Section 1360.60 Restoration**

- a) A person seeking restoration of a license that has expired for 5 years or less shall have the license restored upon payment of \$100 plus all lapsed renewal fees required by Section 18(a)(4) of the Act and proof of 10050 hours of continuing education, as defined in Section 1360.70 of this Part, earned within the 2 years preceding restoration of the license.
- b) A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee and proof of 10050 hours of continuing education, as defined in Section 1360.70 of this Part, earned within 2 years preceding the restoration of the license.
- c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the fee required by Section 18(a)(4) of the Act, and be scheduled for an interview before the Board. The person shall also submit either:
  - 1) Certification of active practice in another jurisdiction and proof of 10050 hours continuing education as defined in Section 1360.70 of this Part during the 2 years prior to restoration. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the applicant was authorized to practice during the term of active practice; or
  - 2) Proof of successful completion of the PM Lexis examination in accordance with Section 1360.40 within one year before applying for restoration.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- d) Pursuant to Section 15(D) of the Act, anyone applying for restoration of a license that has expired or been placed on inactive status while in military service shall submit an affidavit attesting to that service. If the application is made within 2 years after discharge and if all other provisions of Section 15(D) are met, the applicant will only be required to pay the current renewal fee and will not be required to submit proof of continuing education.
- e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee 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 Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon the recommendation of the Board and approval by the Division, an applicant's license shall be restored.

(Source: Amended at 34 Ill. Reg. 16972, effective October 25, 2010)

**Section 1360.70 Continuing Education**

- a) Continuing Education Hour Requirements
  - 1) Every renewal applicant who applies for renewal of a license as a podiatric physician must complete 100 hours of continuing education (CE) relevant to the practice of podiatric medicine.
  - 2) A prerenewal period is the 24 months preceding January 31 of each odd-numbered year.
  - 3) A renewal applicant is not required to comply with CE requirements for the first renewal.
  - 4) Podiatric physicians licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- b) Approved Continuing Education
- 1) All continuing education hours must be earned by verified attendance at or participation in a program or course sponsored, approved or given by a sponsor approved by the Council on Podiatric Medical Education; sponsored by the Illinois Podiatric Medical Association; or which is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c), except for those activities provided in subsections (b)(2), (3), (4), (5), and (6).
  - 2) A maximum of 18 hours of credit per prerenewal period may be earned through postgraduate training programs (i.e., extern, residency, or fellowship programs) approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association as provided for in Section 5(G) of the Act.
  - 3) A maximum of 18 hours per prerenewal period may be earned for verified teaching in an approved podiatric medical college which meets the standards set forth in Section 1360.20 and/or as an instructor of continuing education through an approved sponsor. One hour of credit will be granted for actual presentation, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for presentations of the same course, and will only be allowed for additional study or research.
  - 4) Up to 15 total credit hours per prerenewal period may be claimed for papers, publications, books, presentations and exhibits. The preparation of each published paper, book chapter or audio-visual presentation dealing with Podiatric Medicine which is made available to health professionals may be claimed as 5 hours of credit. A presentation or exhibit must be before a professional audience of podiatrists or other health professionals. Five credit hours may be claimed for only the first time the information is published or presented.
  - 5) Up to ~~50~~15 total credit hours per prerenewal period may be earned through nonsupervised individual activities in the following areas:
    - A) Self-Instruction – ~~Up to 3 hours of~~ credit may be claimed for the use of audio-visual materials, programmed education materials,

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

electronic teaching devices and the individual reading of podiatric medical literature.

- B) Patient Care Review – ~~credit~~Up to 3 hours may be claimed for time spent in programs concerned with the review and evaluation of patient care. This includes such activities as peer review.
  - C) Self-assessment – ~~Up to 3 hours of~~ credit may be claimed for time spent in self-assessment programs. These would include, for example, quizzes completed by the podiatrist after reading professional publications of a scientific or patient-care oriented nature, or completion of aptitude questionnaires provided by various organizations and societies.
  - D) Specialty Board or Specialty Organization Preparation – ~~credit~~Up to 6 hours may be claimed for nonsupervised individual activities carried out in preparation for an examination or to satisfy other requirements for membership in a specialty organization. No additional credit may be claimed for taking and/or passing an examination given by the board or organization.
- 6) Up to 10 hours of credit per prerenewal period may be claimed for verified formal learning experiences sponsored by hospitals, agencies, organizations or other institutions which are not approved continuing education sponsors, in subjects that facilitate the podiatrist's performance, such as courses in computerized patient-record systems, practice management, risk management or training – including advanced degree programs in education, health administration, and similar subjects.
- c) Approved CE Sponsors and Programs
- 1) Sponsor, as used in this Section, shall mean the Council on Podiatric Medical Education and its approved sponsors, the Illinois Podiatric Medical Association, or a person, firm, association, corporation, or any other group which has been approved and authorized by the Board and validated by the Illinois Podiatric Medical Association Continuing Education Committee to coordinate and present continuing education courses or programs.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- 2) A sponsor shall submit the fee set forth in Section 18(a)(10) of the Act, along with a sponsor application that certifies:
  - A) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3) and all other criteria in this Section;
  - B) That the sponsor will be responsible for verifying attendance at each course or program, and provide a certificate of attendance as set forth in subsection (d);
  - C) That, upon request by the Division, the sponsor will submit such evidence (e.g., certificate of attendance or course materials) as is necessary to establish compliance with this Section. Such evidence shall be required when the Division has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.
- 3) All courses and programs shall:
  - A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of podiatric medicine;
  - B) Provide experiences which contain scientific integrity, and subject matter and course material relevant to podiatric medicine;
  - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
  - D) Specify the course objectives, course content and teaching methods to be used; and
  - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) All programs given by approved sponsors shall be open to all licensed podiatric physicians and not be limited to members of a single organization or group.

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- 5) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.
- 6) Each sponsor shall reapply by January 31 of each year. The sponsor shall submit to the Division, along with the completed sponsor application and the fee set forth in Section 18(a)(10) of the Act, a list of courses and programs offered within the last 12 months, which includes a brief description, location, date and time of the course.
- 7) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in an approved program or course with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
  - A) The name and address of the sponsor;
  - B) The name and address of the participant;
  - C) A brief statement of the subject matter;
  - D) The number of hours attended in each program;
  - E) The date and place of the program; and
  - F) The signature of the sponsor.
- 8) The sponsor shall maintain attendance records for not less than five years.
- 9) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
- 10) Upon the failure of any sponsor to comply with any of the foregoing requirements, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of such sponsor's CE activities until such time as the Division receives assurances of compliance with this Section.

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- 11) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved continuing education program at any time to ensure compliance with the requirements of this Section.
- d) Certification of Compliance with CE Requirements
    - 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b).
    - 2) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance. Such additional evidence will be required in the context of the Division's random audit.
    - 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified in writing and may request an interview with the Board.
  - e) Continuing Education Earned in Other Jurisdictions
    - 1) If a renewal applicant will be earning or has earned CE hours in another jurisdiction, but is not licensed in that jurisdiction and the course is not presented by an approved sponsor, the applicant shall submit an individual program approval request form, along with a \$20 processing fee, to have the program reviewed. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(5) of this Section. Applicants may seek individual program approval prior to the participation in the course or program. All individual program approval requests shall be submitted 90 days prior to the expiration date of the license.
    - 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$20 processing fee plus a \$50 per credit hour late fee not to exceed \$300. The Board shall review and recommend approval and disapproval of the program using the criteria set forth in subsection (b) of this Section.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- f) Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application along with the required fee set forth in Section 18(a)(3) of the Act, a statement setting forth the facts concerning such non-compliance, and request for waiver of the CE requirements on the basis of such facts. The request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted, that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of the requirements for the renewal period for which the applicant has applied.
  - 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
    - A) Full time service in the Armed Forces of the United States of America during a substantial part of such period;
    - B) An incapacitating illness documented by a statement from a currently licensed physician;
    - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
    - D) Any other similar extenuating circumstances.
  - 3) Any renewal applicant who, prior to the expiration date of a license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final Division decision on the application has been made.

(Source: Amended at 34 Ill. Reg. 16972, effective October 25, 2010)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Developmental Disabilities Services
- 2) Code Citation: 89 Ill. Adm. Code 144
- 3) Section Number: 144.102                      Emergency Action: New Section
- 4) Statutory Authority: Implementing Section 18.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/18.2] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5]
- 5) Effective date of amendment: November 1, 2010
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: This rulemaking will not expire before the 150 day period.
- 7) Date filed with the Index Department: October 22, 2010
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Non-Medicaid funding to support ICFs/DD that serve people with exceptional care needs has been cut in past years and due to the financial situation of the State, will end on October 31, 2010. The lack of this funding could result in the closure of two facilities that serve a high percentage of people with developmental disabilities and high medical needs. This rulemaking will allow these facilities to continue providing this service and will increase the amount of funding eligible for federal, Medicaid matching funds. Therefore, the agency finds that the threat to the public interest, safety and welfare of the people served by these facilities will be addressed by this rulemaking.
- 10) A complete description of the subject and issues: The basis of this rulemaking is to allow Intermediate Care Facilities for people with Developmental Disabilities (ICFs/DD) that serve a high number of people with exceptional care needs to have an adjustment in their rate to cover these vital services. The addition of the exceptional care criteria to the rate methodology will allow this portion of funding to garner new federal matching funds.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

11) Are there any other proposed rulemakings pending on this Part? Yes

|                        |                         |                                     |
|------------------------|-------------------------|-------------------------------------|
| <u>Section Number:</u> | <u>Proposed Action:</u> | <u>Register Citation:</u>           |
| 144.102                | Amendment               | 34 Ill. Reg. 13742; October 1, 2010 |

12) Statement of statewide policy objectives: This rulemaking does not create or expand a State mandate.

13) Information and questions regarding this emergency rulemaking shall be directed to:

Tracie Drew, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Bldg., 3<sup>rd</sup> Floor  
Springfield, Illinois 62762

217/785-9772

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER d: MEDICAL PROGRAMSPART 144  
DEVELOPMENTAL DISABILITIES SERVICES

## Section

|                |   |
|----------------|---|
| 144.1          | Incorporation By Reference  |
| 144.5          | Determination of Program (Active Treatment) Costs   |
| 144.25         | ICF/MR Service Criteria   |
| 144.50         | Inspection of Care and Rate Setting Appeal Process  |
| 144.75         | Comprehensive Functional Assessments and Reassessments (Repealed)   |
| 144.100        | Exceptional Care Needs of Clients with Developmental Disabilities   |
| <u>144.102</u> | <u>High Medical/High Personal Care Needs of Individuals with Developmental Disabilities</u>   |
|                | <u>EMERGENCY</u>  |
| 144.105        | Individual Program Plan (IPP) (Repealed)  |
| 144.125        | Specialized Care – Behavior Development Programs  |
| 144.150        | Specialized Care – Health and Sensory Disabilities  |
| 144.160        | Base Nursing in Facilities Licensed as ICF/DD-16s including Small Scale (4 and 6 bed) ICF/DD-16s                                      |
| 144.165        | Medication Administration in Facilities Licensed as ICF/DD-16s including Small Scale Residential Facilities (4 and 6 beds) ICF/DD-16s |
| 144.175        | Functional Needs  |
| 144.200        | Service Needs – Medical Care (Repealed)   |
| 144.205        | Service Needs – Medical and Therapy Services (Repealed)   |
| 144.225        | Individual Rights (Repealed)  |
| 144.230        | Reconciliation of Resident Funds  |
| 144.250        | Discharge Planning/Maximum Growth Potential Plan (Repealed)   |
| 144.275        | Reimbursement for Program (Active Treatment) Costs in Residential Facilities for Clients with Developmental Disabilities              |
| 144.300        | Reimbursement for Program (Active Treatment) Costs in Small Scale Residential Facilities (4 and 6 bed) ICF/DD-16s                     |
| 144.325        | Capital Rate Calculation  |
| 144.TABLE A    | Overview of Staff Intensity Scale of Maladaptive Behaviors  |
| 144.TABLE B    | Staff Intensity Scale   |
| 144.TABLE C    | IPP Outcomes (Repealed)   |

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENT

144.TABLE D Guidelines for Determining Levels of Functioning  
144.TABLE E Standardized Adaptive Functional Assessment

AUTHORITY: Implementing Section 18.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/18.2] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

SOURCE: Adopted at 14 Ill. Reg. 4166, effective March 9, 1990; Section 144.275 recodified from 89 Ill. Adm. Code 146.225 at 14 Ill. Reg. 7651; amended at 14 Ill. Reg. 17988, effective October 29, 1990; amended at 15 Ill. Reg. 14084, effective September 24, 1991; emergency amendment at 15 Ill. Reg. 16148, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3497, effective February 28, 1992; amended at 16 Ill. Reg. 5898, effective March 20, 1992; amended at 17 Ill. Reg. 8478, effective June 1, 1993; amended at 17 Ill. Reg. 11480, effective July 16, 1993; emergency amendment at 17 Ill. Reg. 15126, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; emergency amendment repealed at 17 Ill. Reg. 22582, effective December 20, 1993; emergency amendment at 18 Ill. Reg. 11314, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16619, effective October 27, 1994; amended at 19 Ill. Reg. 2890, effective February 22, 1995; amended at 19 Ill. Reg. 7906, effective June 5, 1995; amended at 20 Ill. Reg. 6916, effective May 6, 1996; emergency amendment at 20 Ill. Reg. 7426, effective May 24, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9072, effective June 28, 1996; amended at 20 Ill. Reg. 11326, effective August 1, 1996; amended at 20 Ill. Reg. 12465, effective August 30, 1996; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 9287, effective May 15, 1998; amended at 23 Ill. Reg. 932, effective January 6, 1999; emergency amendment at 24 Ill. Reg. 6431, effective March 31, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 13404, effective August 18, 2000; emergency amendment at 34 Ill. Reg. 16983, effective November 1, 2010, for a maximum of 150 days.

**Section 144.102 High Medical/High Personal Care Needs of Individuals with Developmental Disabilities**  
**EMERGENCY**

- a) For services provided on or after July 1, 2010, daily rates for qualifying ICFs/MR shall have their own reimbursement rates adjusted pursuant to this Section.
- b) Qualifying Criteria

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENT

In order to receive rate adjustments under this Section, facilities must meet the criteria specified in this subsection (b). As of May 1, 2010, and on a continuing basis thereafter, the facility must:

- 1) Be a licensed ICF/MR, as defined in 77 Ill. Adm. Code 350, with more than 16 licensed beds and is not:
  - A) An SNF/PED, as defined in 77 Ill. Adm. Code 390; or
  - B) A dually-licensed facility with one or more portions of the facility licensed under different Parts of Title 77 of the Illinois Administrative Code; or
  - C) A campus facility, as defined under 89 Ill. Adm. Code 140.583.
- 2) For the immediately preceding month, as documented in the remittance advice report, have:
  - A) An occupancy level of at least 93 percent of licensed bed capacity; and
  - B) At least 93 percent of the facility residents eligible for, and enrolled in, medical assistance under 89 Ill. Adm. Code 120.
- 3) Based on the most recently conducted annual inspection of care survey, at least 60 percent of the residents of the facility must qualify as Medical Level III.

c) Adjustment Methodology

The program and support components of the per diem rate for qualifying facilities shall be replaced with the adjusted program and support components, determined as follows:

- 1) Adjustment Factor

The adjustment factor for a facility shall be the product of the difference between the Medical Level III percentage and 60 percent and:

  - A) For facilities with a Medical Level III percentage less than 80 percent -0.600; or

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENT

- B) For all other facilities -1.700.
- 2) Adjusted Program Component  
The adjusted program component shall equal the product of the following:
- A) The program component of the per diem rate, as determined under Section 144.275; and
- B) The sum of 1.000 plus the adjustment factor for the facility, as determined in subsection (c) (1).
- 3) Adjusted Support Component  
The adjusted support component shall equal the SNF/PED ceiling for the geographic area in which the facility is located.
- 4) Subsequent Adjustments  
Adjusted program and support components shall be redetermined when:
- A) Changes to the program or support rate components are required in accordance with 89 Ill. Adm. Code 153; and
- B) The percentage of the residents who are classified as Medical Level III changes as a result of the facility's annual inspection of care survey. The adjusted program component shall be recalculated and effective the first day of the month following the Medical Level III determinations.

(Source: Added by emergency rulemaking at 34 Ill. Reg. 16983, effective November 1, 2010, for a maximum of 150 days)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Pyrotechnic Distributor and Operator Licensing Rules
- 2) Code Citation: 41 Ill. Adm. Code 230
- 3) The Notice of Adopted Amendments being corrected appears at:  
34 Ill. Reg. 16524; October 22, 2010
- 4) The information being corrected is as follows:
  - 14) Are there any amendments pending? Yes

| <u>Section Numbers:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u>     |
|-------------------------|-------------------------|--|
| 230.140                 | Amend                   | 34 Ill. Reg. 13612; September 24, 2010 |
| 230.150                 | Amend                   | 34 Ill. Reg. 13612; September 24, 2010 |
| 230.2300                | Amend                   | 34 Ill. Reg. 13612; September 24, 2010 |

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO  
EMERGENCY RULEMAKING

ILLINOIS WORKERS' COMPENSATION COMMISSION

Heading of the Part: Miscellaneous

Code Citation: 50 Ill Adm Code 7110

Section Numbers: 7110.90

Date Originally Published in the Illinois Register: 7/16/10  
34 Ill. Reg. 10222

At its meeting on October 19, 2010, the Joint Committee on Administrative Rules objected to the Illinois Workers' Compensation Commission's emergency rule titled (50 Ill Adm Code 7110; 34 Ill. Reg. 10222) because the cost-plus pricing model used in the rulemaking is contrary to Section 8.2 of the Workers' Compensation Act's requirement that the fee schedule be based on medical service provider fees and charges, not cost. JCAR additionally objects to the use of emergency rulemaking, as no grounds have been adequately shown that mandated adoption of these amendments in a shorter time frame than would have been required for the proposed rulemaking process and its incumbent opportunity for public participation.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO AND FILING PROHIBITION  
OF PROPOSED RULEMAKING

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

Heading of the Part: Cemetery Oversight Act

Code Citation: 68 Ill Adm Code 1249

|                         |          |          |          |          |
|-------------------------|----------|----------|----------|----------|
| <u>Section Numbers:</u> | 1249.10  | 1249.110 | 1249.200 | 1249.400 |
|                         | 1249.20  | 1249.120 | 1249.210 | 1249.410 |
|                         | 1249.30  | 1249.130 | 1249.220 | 1249.420 |
|                         | 1249.40  | 1249.140 | 1249.230 | 1249.430 |
|                         | 1249.50  | 1249.150 | 1249.300 | 1249.440 |
|                         | 1249.60  | 1249.160 | 1249.310 | 1249.450 |
|                         | 1249.70  | 1249.170 | 1249.320 | 1249.460 |
|                         | 1249.100 | 1249.180 | 1249.330 | 1249.470 |

Date Originally Published in the Illinois Register: 4/9/10  
34 Ill. Reg. 5047

At its meeting on October 19, 2010, the Joint Committee on Administrative Rules voted to object to the above proposed rulemaking and prohibit its filing with the Secretary of State. The Committee found that the adoption of this rulemaking would constitute a serious threat to the public interest, safety or welfare. The reason for the Objection and Prohibition is as follows:

JCAR objects to, and prohibits filing of, the Department of Financial and Professional Regulation's rulemaking titled Cemetery Oversight Act (68 Ill. Adm. Code 1249; 34 Ill. Reg. 5047) because licensure fees, indemnification costs and continuing education requirements, as well as cemetery maintenance standards that are not differentiated based on the size and financial strength of the cemetery as is required by the statute, will cause serious financial hardship for some cemeteries. Implementing this rulemaking is likely to cause some small cemeteries to go into receivership or abandonment, especially those that are operated by volunteers, which would create a serious threat to the public interest and welfare.

The proposed rulemaking may not be filed with the Secretary of State or enforced by the Department of Financial and Professional Regulation for any reason following receipt of this certification and statement by the Secretary of State for as long as the Filing Prohibition remains in effect.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 19, 2010 through October 25, 2010 and have been scheduled for review by the Committee at its November 16, 2010 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<br/>Notice<br/>Expires</u> | <u>Agency and Rule</u>   | <u>Start<br/>Of First<br/>Notice</u> | <u>JCAR<br/>Meeting</u> |
|--------------------------------------|--|--------------------------------------|-------------------------|
| 12/1/10                              | <u>Department of Agriculture</u> , Motor Fuel and Petroleum Standards Act (8 Ill. Adm. Code 850) | 7/23/10<br>34 Ill. Reg.<br>10486     | 11/16/10                |
| 12/1/10                              | <u>Department of Agriculture</u> , Bovine Brucellosis (8 Ill. Adm. Code 75)                      | 7/23/10<br>34 Ill. Reg.<br>10433     | 11/16/10                |
| 12/8/10                              | <u>Pollution Control Board</u> , General Provisions (35 Ill. Adm. Code 101)                      | 7/2/10<br>34 Ill. Reg.<br>8500       | 11/16/10                |

## PROCLAMATIONS

**2010-293****Le Chapeau Nationale Day (Revised)**

WHEREAS, 786 children suffer from Tuberculosis, 30,000 children suffer from Cystic Fibrosis and thousands of children suffer from other respiratory diseases nationwide each year; and,

WHEREAS, by providing grants to non-profit agencies and scholarships to nursing students who plan on working with children with tuberculosis, the Eight and Forty organization has enabled countless individuals to contribute to the quality of life of our state and our nation's youth; and,

WHEREAS, the Eight and Forty Organization has improved research and hospital maintenance to better treat these children for 89 years; and,

WHEREAS, the fulfillment of this mission could not be achieved without the leadership and motivation of the Le Chapeau Nationale; and,

WHEREAS, Milwaukee, Wisconsin is host to this year's annual La Marche convention for Le Chapeau Nationale Janet Christiansen:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby commend Le Chapeau Nationale Janet Christiansen and the Eight and Forty for its devotion to protecting the health of children with respiratory diseases and hereby proclaim September 2, 2010 as **LE CHAPEAU NATIONALE DAY** in Illinois, in honor of their dedication to this mission.

Issued by the Governor August 30, 2010

Filed by the Secretary of State October 25, 2010

**2010-355****S.T.A.T.I.C. Now Illinois Day**

WHEREAS, on August 6, 2009 legislation was passed in Illinois that prohibits motorists from texting on cell phones while driving; and,

WHEREAS, on October 12<sup>th</sup>, 2010, S.T.A.T.I.C. Now Illinois is holding an Illinois Media Launch Event at Regina Dominican High School; and,

WHEREAS, the mission of S.T.A.T.I.C. Now Illinois is to raise awareness among teens and adults of all ages about the dangers of texting and talking on cell phones while driving; and,

WHEREAS, S.T.A.T.I.C. Now Illinois will achieve its mission through using virtual simulators as a tool for demonstrating to teens the dangers of texting and talking while driving, distributing

## PROCLAMATIONS

informational materials at community events, and providing information about the dangers of texting and talking while driving on its website, [www.staticnowillinois.webs.com](http://www.staticnowillinois.webs.com); and,

WHEREAS, the State of Illinois affirms its commitment to aggressively working towards the reduction of texting and talking on cell phones by collaborating with S.T.A.T.I.C. Now Illinois, community organizations, and local, state, and federal agencies; and,

WHEREAS, numerous studies have documented that using a cell phone while driving is dangerous; and,

WHEREAS, the use of a cell phone while driving increases your chance of getting into a car crash by 400 percent; and,

WHEREAS, one in four teens of driving age say they have texted while driving, and half of all teens ages 12 to 17 say they have been a passenger while a driver was texting behind the wheel; and,

WHEREAS, at any moment during daylight hours, over 800,000 vehicles are being driven by someone using a hand-held cell phone:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 12, 2010 as **S.T.A.T.I.C. NOW ILLINOIS DAY** to promote the importance of ending cell phone use while driving and to affirm the continued commitment of Illinois in ensuring that motorists travel safely in the Land of Lincoln.

Issued by the Governor October 12, 2010

Filed by the Secretary of State October 25, 2010

**2010-356****Infection Prevention Week**

WHEREAS, protecting the health of Americans includes providing every citizen with access to safe and effective healthcare; and,

WHEREAS, the prevention of healthcare-associated infections is instrumental in achieving this goal; and,

WHEREAS, Infection Preventionists are devoted to patient and healthcare worker safety and are committed to reducing the risk and occurrence of healthcare-associated infections; and,

## PROCLAMATIONS

WHEREAS, every year Americans make more than 1 billion visits to their doctors' offices, emergency rooms, and hospital outpatient departments and more than 37 million are admitted to hospitals, with many undergoing medical procedures that have a risk of infectious complications; and,

WHEREAS, healthcare-associated infections increase morbidity and mortality and add a significant financial burden to the cost of healthcare; and,

WHEREAS, each year, healthcare-associated infections are among the leading causes of death in the United States, accounting for an estimated 1.7 million infections and 99,000 associated deaths in 2002; and,

WHEREAS, the financial burden attributed to healthcare-associated infections is staggering, representing an estimated \$28 billion to \$33 billion in excess healthcare costs each year - \$6.5 billion in the United States alone; and,

WHEREAS, according to the World Health Organization (WHO) it is estimated that at any time over 1.4 million people worldwide suffer from infectious complications acquired in hospitals, with hospital-wide prevalence rates ranging from 5 percent to 19 percent in developing countries; and,

WHEREAS, the Association for Professionals in Infection Control and Epidemiology (APIC), representing more than 13,000 Infection Prevention and Control Professionals, sponsors International Infection Prevention Week – an awareness campaign to make the public aware of the importance of preventing healthcare-associated infections, thereby reducing the burden on human suffering and disease:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 17 - 23, 2010 as **INFECTION PREVENTION WEEK** in Illinois, and encourage all citizens to join in this worthy effort to prevent healthcare-associated infections.

Issued by the Governor October 12, 2010

Filed by the Secretary of State October 25, 2010

**2010-357**

**Lilly Ledbetter Day**

WHEREAS, Lilly Ledbetter is one the most recognized and respected spokeswoman for the issue of pay equity today because she has battled corporations, courts, and legislators to ensure equal work results in equal pay for women across the country; and,

## PROCLAMATIONS

WHEREAS, the only woman hired for her position, Ms. Ledbetter worked as an overnight supervisor for Goodyear Tire and Rubber Company for almost two decades, where she trained and oversaw new hires, who were all men. Building a reputation for high-quality work and her no nonsense demeanor, Ms. Ledbetter received the company's Top Performance Award in 1996; and,

WHEREAS, despite her outstanding quality of work and numerous accomplishments, Ms. Ledbetter eventually came to learn that she was being paid significantly less than her male counterparts, which resulted in less income for her family and a smaller pension for her retirement, simply because she was a woman; and,

WHEREAS, although she faced threats and harassment, Ms. Ledbetter courageously filed formal charges with the Equal Employment Opportunity Commission against her employer for gender-pay discrimination. Soon thereafter, Ms. Ledbetter took her case to court, where she protested pay discrimination under Title VII of the Civil Rights Act and Equal Pay Act; and,

WHEREAS, while Ms. Ledbetter resolutely fought her case all the way to the Supreme Court, ultimately the Court did not rule on the plausibility of sex discrimination but instead on the statute of limitations. However, Ms. Ledbetter refused to give up, and her fight for equal pay for equal work struck a chord with many legislators across America; and,

WHEREAS, as the first piece of legislation he authorized in office, President Barack Obama signed the Lilly Ledbetter Fair Pay Act into law on January 29, 2009, ensuring that all workers will have 180 days after any discriminatory paycheck to file a complaint, so that they will not have to face the circumstances Ms. Ledbetter did as a mother, provider, and retiree; and,

WHEREAS, on October 14<sup>th</sup>, 2010, the Illinois Department of Human Rights, in partnership with the Women's Bureau, U.S. Department of Labor, Equal Employment Opportunity Commission, Chicago District Office, Advisory Council on Women, Chicago Commission on Human Relations, Illinois Department of Labor, and Cook County Commission on Women's Issues will honor Ms. Ledbetter as she shares her remarkable story at the Chicago Cultural Center:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 14<sup>th</sup>, 2010 as **LILLY LEDBETTER DAY** in Illinois, in recognition of the tremendous perseverance, dedication, and sense of justice Ms. Ledbetter exhibited in her fight for equal pay for equal work, for which our State will be forever grateful.

Issued by the Governor October 12, 2010

Filed by the Secretary of State October 25, 2010

## PROCLAMATIONS

**2010-358****National Service Recognition Day**

WHEREAS, more than 78,000 people of all ages and backgrounds are serving in 159 national service projects across Illinois; and,

WHEREAS, National Service Members serve their communities by improving education, protecting public safety, improving health care, safeguarding the environment, providing disaster relief and promoting civic engagement; and,

WHEREAS, more than 2,700 AmeriCorps Members serving in Illinois will take a pledge today to promise to carry this commitment to service throughout their lives; and,

WHEREAS, over 18,000 Senior Corps Members are currently contributing their time and talents through the Foster Grandparent, Senior Companion, and Retired and Senior Volunteer Program (RSVP) programs; and,

WHEREAS, the Learn and Serve America program provides grants to schools, colleges, and nonprofits to engage more than 57,000 Illinois students in community service, civic learning and community service each year; and,

WHEREAS, the Serve Illinois Commission is charged with enhancing and supporting community volunteerism in all its forms and in the administration of the AmeriCorps State Program in Illinois:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 21, 2010, as **NATIONAL SERVICE RECOGNITION DAY** in Illinois, and congratulate members of Illinois' AmeriCorps and the National Service family of programs, both past and present, on their service in strengthening communities through volunteerism in the State of Illinois.

Issued by the Governor October 12, 2010

Filed by the Secretary of State October 25, 2010

**2010-359****Polish American Heritage Month**

WHEREAS, since 1608, when the first Polish settlers arrived at Jamestown, Virginia, Polish people have been an important part of America's history and culture; and,

WHEREAS, in October, 2010, Polish Americans will mark the 29<sup>th</sup> Anniversary of the founding of Polish American Heritage Month, a national celebration of Polish history, culture and pride; and,

## PROCLAMATIONS

WHEREAS, during 2010, the Polish American Community, together with the World, celebrates the 200<sup>th</sup> Anniversary of the birth of Polish composer and pianist, Fryderyk Chopin; and,

WHEREAS, in 2010 we celebrate the 30<sup>th</sup> Anniversary of the formation of SOLIDARITY, the Polish labor movement which led to the overthrow of Communism- thus ultimately changing the political structure of the entire World; and,

WHEREAS, 2010 also marks the 70<sup>th</sup> Anniversary of the Katyn Forest Massacre, the premeditated execution of 22,000 Polish officers and intellectuals by the Soviet secret police in April – May, 1940; and,

WHEREAS, Polish Americans continue to mourn the death of Poland's President, Lech Kaczynski, First Lady, Maria Kaczynska, last President-in-Exile, Ryszard Kaczorowski, parliamentarians and many notables who died in a tragic plane crash en-route to Russia for a memorial for the victims of the Katyn Massacre; and,

WHEREAS, among the 96 victims of the tragic plane crash in Smolensk, Russia was, ironically, the only Polish American, Illinois resident Wojciech Seweryn, whose father was massacred in Katyn and who designed the Katyn Monument in Niles, Illinois; and,

WHEREAS, there are about 10 million Americans of Polish descent, with more than 1 million living in Illinois; and,

WHEREAS, the City of Chicago boasts the largest metropolitan Polish population of any city outside of Poland, with approximately 185,000 Polish language speakers; and,

WHEREAS, it is essential that we, as Illinoisans and Americans, learn about the great history and culture of Poland and Polish Americans which is woven into the rich tapestry that makes up our nation's diverse population:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2010 as **POLISH AMERICAN HERITAGE MONTH** in Illinois, in recognition of the contributions Polish Americans have made and continue to make to the history, economy and culture of our state.

Issued by the Governor October 12, 2010

Filed by the Secretary of State October 25, 2010

**2010-360**

**Allen Chapel African Methodist Episcopal Church Day**

## PROCLAMATIONS

WHEREAS, Allen Chapel African Methodist Episcopal Church, the first religious institution for African Americans in the City of Danville, was organized in 1865 by the first pastor of Allen Chapel, Reverend Payne; and,

WHEREAS, religious services for Allen Chapel AME Church were first held in the home of William Bass; and,

WHEREAS, from 1866 to 1958, Allen Chapel AME Church members endured relocations and fires before settling at the church's current location, 503 North Jackson Street in Danville; and,

WHEREAS, this year, Allen Chapel African Methodist Episcopal Church celebrates its 145<sup>th</sup> anniversary; and,

WHEREAS, for the last 145 years, Allen Chapel AME Church has been a wonderful spiritual sanctuary in the City of Danville, and an important and historical community institution for the African American community; and,

WHEREAS, Allen Chapel AME Church has served as a site of worship, charity, education, and community involvement for the past 145 years. Its leaders and founders have played important roles in both the civic and religious life of the City of Danville; and,

WHEREAS, on October 17, 2010, Allen Chapel AME Church will be celebrating its 145<sup>th</sup> anniversary with a special service to include participation from local ministers, as well as Allen Chapel's sister church, Bethel AME Church of Champaign; and,

WHEREAS, this special 145<sup>th</sup> Anniversary celebration also commemorates and honors the leadership of all the past and present pastors and members of Allen Chapel African Methodist Episcopal Church who have contributed so greatly to the community over the years:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 17, 2010 as **ALLEN CHAPEL AMERICAN METHODIST EPISCOPAL CHURCH DAY** in Illinois, in recognition of their 145<sup>th</sup> anniversary of serving the local community and the State of Illinois.

Issued by the Governor October 12, 2010

Filed by the Secretary of State October 25, 2010

**2010-361**  
**Project Fit America Day**

## PROCLAMATIONS

WHEREAS, Project Fit America is a non-profit organization whose mission is to establish exemplary academic programs in schools to get children physically fit; and,

WHEREAS, the program, now in its 20<sup>th</sup> year, has helped schools in over 750 cities and 40 states nationwide; and,

WHEREAS, studies show that children who exercise on a regular basis perform higher academically at the elementary and middle school levels because they are keener, less tired, and in better control of aggression; and,

WHEREAS, on Tuesday, October 19, 2010 at Washington Elementary School in Schiller Park, Loyola University Medical Center/Gottlieb Memorial Hospital will kick off Project Fit America in Illinois; and

WHEREAS, Loyola University Medical Center/Gottlieb Memorial Hospital has done a magnificent job of gathering an impressive group of teachers, parents and community members to create model programs; and,

WHEREAS, eleven exemplary model and pilot schools in Illinois are participating in Project Fit America, which impacts over 6,000 children, hundreds of teachers and countless community members, creating an exemplary state model school fitness initiative:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 19, 2010 as **PROJECT FIT AMERICA DAY** in Illinois, in support of the efforts of Project Fit America.

Issued by the Governor October 12, 2010

Filed by the Secretary of State October 25, 2010

**2010-362****Diversity Employment Day**

WHEREAS, a diverse workplace, where all employees are ensured equal opportunities for success, is an economic necessity; and,

WHEREAS, the success of a company in the 21<sup>st</sup> century is dependent in part on its ability to maintain a workforce that mirrors the diverse community it serves; and,

WHEREAS, the Diversity Employment Day Career Fair for Chicago and Illinois will bring together Illinois' major employers with thousands of qualified diversity professionals; and,

## PROCLAMATIONS

WHEREAS, the Diversity Employment Day Career Fair will offer employment opportunities and career guidance for professionals in accounting, administration, healthcare, hardware and software engineering, finance, information technology, law enforcement, management, marketing, sales, network, data and telecommunications; and,

WHEREAS, the Diversity Employment Day Career Fair will be held at the Embassy Suites Chicago – Downtown/Lakefront on Wednesday, November 10, 2010:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 10, 2010 as **DIVERSITY EMPLOYMENT DAY** in Illinois, and congratulate all participants for recognizing the economic and social value in employing a diverse workforce.

Issued by the Governor October 12, 2010

Filed by the Secretary of State October 25, 2010

**2010-363****Marine Week**

**WHEREAS, the United States Marine Corps has guarded our country and protected American freedom and liberty for the past 235 years; and,**

WHEREAS, ever since the creation of the Marine Corps in 1775, Marines have served and fought in every American conflict, from the Revolutionary War in the 18<sup>th</sup> century, to the War on Terrorism today; and,

WHEREAS, Marines are trained to always be faithful to "God, Country, and Corps," to stand ready to fight anytime and anywhere the President or Congress may designate, and to hold their ground against all odds; and,

WHEREAS, thanks to that training, the Marine Corps is one of the most elite and capable fighting forces in the world; and the devotion of Marines to duty has helped keep us and our country safe and free; and,

WHEREAS, for those reasons, Marines have rightfully earned a reputation for courage and military efficiency. They have a rich tradition of excellence, and this year they celebrate 235 years of commitment and dedication to service; and,

WHEREAS, Marine Week was established to recognize the contributions of local Marine heroes, their families, and the cities from which they came, while also showcasing the rich history and traditions of the Marine Corps; and,

## PROCLAMATIONS

WHEREAS, during Marine Week, to be observed this year from November 7-13 which includes the anniversary of the formation of the Marine on November 10, Marines undertake a variety of activities to raise awareness of the Marine Corps and their role in our communities and in protecting and preserving our Nation and its citizens; and

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 7-13, 2010 as **MARINE WEEK** in Illinois, in recognition of the Marine Corps, and to thank the loyal Marines of our state who have served and sacrificed to protect our liberty and freedom.

Issued by the Governor October 12, 2010

Filed by the Secretary of State October 25, 2010

**2010-364****Extra Mile Day**

WHEREAS, the State of Illinois acknowledges that a special vibrancy exists within the entire community when its individual citizens collectively "go the extra mile" in personal effort, volunteerism, and service; and,

WHEREAS, the State of Illinois encourages its citizens to maximize their personal contribution to their community by giving of themselves wholeheartedly and with total effort, commitment, and conviction to their individual ambitions, family, friends, and community; and,

WHEREAS, the State of Illinois chooses to shine a light on and celebrate individuals and organizations within its community who "go the extra mile" in order to make a difference and lift up fellow members of their community; and,

WHEREAS, the State of Illinois acknowledges the mission of the Extra Mile America Foundation to create 100 Extra Mile cities in America and is proud to support "Extra Mile Day" on November 1, 2010:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 1, 2010 as **EXTRA MILE DAY** in Illinois, and urge each individual in our great state to take time on this day to not only "go the extra mile" in his or her own life, but to also acknowledge all those around who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.

Issued by the Governor October 12, 2010

Filed by the Secretary of State October 25, 2010

**2010-365**

## PROCLAMATIONS

**Goya Day**

WHEREAS, Goya Foods, Inc. is launching the celebration of its 75th anniversary this year; and,

WHEREAS, as the premier source for authentic Latino cuisine, Goya Foods is the largest, Hispanic-owned food company in the United States, founded in 1936 by don Prudencio Unanue and his wife Carolina, both from Spain. The Goya story is as much about the importance of family as it is about achieving the American dream; and,

WHEREAS, the Unanues infused their personal philosophy with the company through a commitment to excellence that became the cornerstone of Goya's popular credo, "If it's Goya, it has to be good;" and,

WHEREAS, the result of this simple, yet deeply resonant pledge has been the evolution of Goya Foods into a leader in the Latin American food industry, with operations spanning the globe with a full host of over 1,600 products ranging from condiments, pantry items, beverages and frozen foods representing all of Latin America; and,

WHEREAS, the company has undergone the most extensive facilities expansion in its history, adding over one million square feet to its manufacturing and packaging capacity, building state-of-the-art manufacturing and distribution centers, one of which was recently built in Bolingbrook- creating new jobs in Illinois; and,

WHEREAS, throughout its history, Goya Foods' dedicated employees have helped to build the company's solid reputation as the leading authority on Hispanic food. Whether presenting consumers with the finest products from the Caribbean, Mexico, Spain or Central and South America, the Goya brand has insured quality for multiple generations of satisfied consumers; and,

WHEREAS, Goya Foods has been a proud supporter of programs and activities that benefit families and children throughout the world. They have taken the lead in numerous disaster relief efforts, providing food donations in times of crisis and consistently working with local food banks to assist those less fortunate. Goya Foods actively engages with social, civic and non-profit organizations for charitable endeavors that promote and sustain community wellness and the advancement of the Hispanic culture; and,

WHEREAS, Goya Foods remains firm in its goal of being the brand of choice for authentic Latino cuisine while retaining its family-oriented approach to its consumers, all of whom comprise La Gran Familia Goya; and

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 1, 2010 as **GOYA DAY** in Illinois, in honor of the cultural richness and traditions of the different

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Hispanic peoples that constitute this country, and in recognition of the Unanues and the entire Goya family on the occasion of their 75<sup>th</sup> anniversary.

Issued by the Governor October 12, 2010

Filed by the Secretary of State October 25, 2010

**2010-366****Flag Honors – Senior Airman Daniel J. Johnson**

WHEREAS, on Tuesday, October 5, United States Air Force Senior Airman Daniel J. Johnson of Schiller Park, Illinois died at age 23 of wounds suffered when insurgents attacked his unit with an improvised explosive device in Kandahar, Afghanistan, where Senior Airman Johnson was serving in support of Operation Enduring Freedom; and,

WHEREAS, Senior Airman Johnson was assigned to the 30<sup>th</sup> Civil Engineer Squadron, based at Vandenberg Air Force Base, California; and,

WHEREAS, Senior Airman Johnson had one of the toughest assignments in the military - explosive ordinance disposal - commonly known as the bomb squad. But his family says he loved it; and,

WHEREAS, this was Senior Airman Johnson's second tour of duty for the Air Force, this time in Afghanistan after earlier serving in Iraq; and,

WHEREAS, Senior Airman Johnson was a three sport athlete in high school and he worked at a Christian youth camp every summer; and,

WHEREAS, Senior Airman Johnson studied for a time at Triton College. But his desire to fight for his country drew him to the Air Force; and,

WHEREAS, a funeral will be held on Thursday, October 14 for Senior Airman Johnson, who is survived by his wife, his parents, and three brothers:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff immediately until sunset on October 14, 2010 in honor and remembrance of Senior Airman Johnson, whose selfless service and sacrifice is an inspiration.

Issued by the Governor October 13, 2010

Filed by the Secretary of State October 25, 2010

**2010-367**

## PROCLAMATIONS

**Fisher House Day**

WHEREAS, the Fisher House Foundation is a non-for-profit organization that honors the sacrifices of service members and their family and offers humanitarian assistance in their time of need; and,

WHEREAS, Fisher House provides a "*home away from home*" for military families to be close to a loved one during hospitalization for an illness, disease or injury; and,

WHEREAS, Fisher House strives to make easier the hospitalization of veterans, by providing these comfort homes on 18 major military installations and 15 VA medical centers to shelter and offer support for family members while their loved ones recuperate; and,

WHEREAS, the Fisher House Foundation has constructed forty-five homes in its twenty-year history and plans to increase this number by nearly 50 percent in the upcoming years; and,

WHEREAS, the growing numbers of homes has enabled the organization to assist over 130,000 families, 11,000 of which were helped in 2009 alone; and,

WHEREAS, Illinois is proud to have been involved in this commendable feat since March of 2010 when the state's first Fisher House opened its doors; and,

WHEREAS, the State of Illinois has also been proud to partner with the Fisher House Foundation on the Hero Miles Program, through which they have granted over 20,000 airplane tickets to injured service members and their families; and,

WHEREAS, the Fisher House Foundation has also awarded over \$8.3 million to both military children and, more recently, military spouses to help them realize their educational dreams; and,

WHEREAS, Stadium Entertainment Holding Corporation, a record company and advertising firm that strongly supports the Fisher House Foundation, has released a country music compilation record to benefit the Foundation and assist it in fulfilling its mission:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 9, 2010 as **FISHER HOUSE DAY** in Illinois, in recognition of the foundation's commitment to our men and women in uniform and their families and the services this organization has provided on their behalf.

Issued by the Governor October 15, 2010

Filed by the Secretary of State October 25, 2010

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**2010-368****Illinois School Breakfast Week**

WHEREAS, the School Breakfast Program has served Illinois admirably since it was established in 1975; and,

WHEREAS, the School Breakfast Program is dedicated to the health and well-being of our nation's children; and,

WHEREAS, students participating in the School Breakfast Program have lower rates of absence and tardiness which can increase the General Revenue dollars received by the district; and,

WHEREAS, participation in the School Breakfast Program can increase academic performance for Illinois schools and students, improving math grades, vocabulary skills and memory; and,

WHEREAS, students in the School Breakfast Program have demonstrated that when offered breakfast closer to class and test-taking time, they perform better on standardized tests; and,

WHEREAS, the School Breakfast Program is an entitlement program, providing reimbursement for each additional meal served that can be used to improve the quality of all school nutrition programs; and,

WHEREAS, the School Breakfast Program plays a role in fighting the childhood and adolescent obesity epidemic. Students who participated in the School Breakfast Program eat more fruits, drink more milk, and consume a wider variety of nutritious foods; and,

WHEREAS, the School Breakfast Program is a key player in eliminating childhood hunger – the September 16, 2010 release of the U.S. Census Bureau Data reported 15.5 million children, or 20.7 percent of all children under age 18, were poor – a larger percentage than any other age group; and,

WHEREAS, there is evidence of continued need for nutrition education and awareness of the value of school nutrition programs, specifically the School Breakfast Program:

THEREFORE, I Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 15 - 19, 2010 as **ILLINOIS SCHOOL BREAKFAST WEEK** and I encourage all Illinois schools to become aware of the benefits of the School Breakfast Program, thereby implementing the School Breakfast Program and increasing the participation of their students in the program.

Issued by the Governor October 15, 2010

## PROCLAMATIONS

Filed by the Secretary of State October 25, 2010

**2010-369****International Education Week**

WHEREAS, international education and exchanges include thousands of programs that promote the sharing of ideas and experiences across borders. These include study abroad programs, citizen and scholarly exchanges, foreign students on U.S. campuses, area and foreign language studies, and global approaches to U.S. education; and,

WHEREAS, by participating in such programs, our young people develop a greater appreciation and respect for other people and their cultures, and are more prepared for a global environment; and,

WHEREAS, we live in an increasingly interconnected world, and improving global literacy among our citizens contributes significantly to our nation's foreign policy, economic competitiveness, and national security; and,

WHEREAS, through international education, the United States can establish a foundation for dialogue and partnership with the rest of the world and create the conditions for lasting global peace, security and wellbeing; and,

WHEREAS, the United States Departments of State and Education have declared November 15-19, 2010 as International Education Week in observance of the many important contributions of international education to our nation's peace and prosperity:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 15-19, 2010 as **INTERNATIONAL EDUCATION WEEK** in Illinois, in recognition of the importance of international education in our lives and communities.

Issued by the Governor October 15, 2010

Filed by the Secretary of State October 25, 2010

**2010-370****National Elevator Escalator Safety Awareness Week**

WHEREAS, the week of November 14 – 20, 2010 has been declared National Elevator Escalator Safety Awareness Week; and,

WHEREAS, the purpose of this week is to increase public awareness of the safe and proper use of elevators, escalators, and moving walkways; and,

## PROCLAMATIONS

WHEREAS, the goal of this week is to reduce avoidable accidents through education and awareness; and,

WHEREAS, the elevator industry greatly contributes to the quality of life; and,

WHEREAS, the observance of National Elevator Escalator Safety Awareness Week is worthy of support and cooperation to benefit citizens, the general public, and the short range vertical transportation industry:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 14 – 20, 2010 as **NATIONAL ELEVATOR ESCALATOR SAFETY AWARENESS WEEK** in Illinois.

Issued by the Governor October 15, 2010

Filed by the Secretary of State October 25, 2010

**2010-371****Neuroendocrine Cancer Awareness Day**

WHEREAS, neuroendocrine tumors (NETs) often develop into cancer and, if left untreated, can result in serious illness and death; and,

WHEREAS, all too often, healthcare professionals underestimate the malignant and metastatic potential of neuroendocrine tumors; and,

WHEREAS, NET cancer patients are often misdiagnosed or receive a delayed diagnosis, which can have a negative impact on their chance of survival and quality of life; and,

WHEREAS, survival for NET cancer patients is further compromised by fragmented care and lack of access to treatment by networks of specialists; and,

WHEREAS, although there have been advances in the detection and treatment of NET cancers, not all patients are benefiting quickly enough from scientific and medical progress in the field; and,

WHEREAS, with timely diagnosis and proper treatment, NET cancer patients can have significantly improved outcomes and quality of life:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 10, 2010 as **NEUROENDOCRINE CANCER AWARENESS DAY** in Illinois, in order to raise

## PROCLAMATIONS

awareness about NET cancers and the need for timely diagnosis and access to optimal treatment and care.

Issued by the Governor October 15, 2010

Filed by the Secretary of State October 25, 2010

**2010-372**  
**Paralegal Day**

WHEREAS, paralegals provide essential and vital legal support for many organizations including law firms, corporate legal departments, and government offices; and,

WHEREAS, to meet the increasing demands for legal services in the United States, the skilled work of paralegals will grow in importance and significance for the operation of American organizations and the application of American law. According to the United States Bureau of Labor Statistics, the paralegal profession will experience greater than average growth through the year 2012; and,

WHEREAS, created in 1972, the Illinois Paralegal Association represents more than 1,400 paralegals in our state. The association is one of the oldest and largest statewide organizations that supports paralegals, and is celebrating its 38<sup>th</sup> anniversary this year; and,

WHEREAS, the purpose of the Illinois Paralegal Association is to promote the paralegal profession and communication among paralegals, the legal community, and civic and professional organizations, as well as encourage the continuing education of paralegals:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 4, 2010 as **PARALEGAL DAY** in Illinois, as the Illinois Paralegal Association meets for an annual conference, and to commend paralegals in our state for their contributions to our communities.

Issued by the Governor October 15, 2010

Filed by the Secretary of State October 25, 2010

**2010-373**  
**School Psychology Awareness Week**

WHEREAS, all children and youth learn best when they are healthy, supported and receive an education that meets their individualized needs; and,

## PROCLAMATIONS

WHEREAS, schools can more effectively ensure that all students are ready and able to learn when they meet the needs of the whole child; and,

WHEREAS, children's mental health is directly linked to their learning and development, and the learning environment provides an optimal context to promote good mental health; and,

WHEREAS, sound psychological principles are integral to instruction and learning, social and emotional development, prevention and early intervention, and supporting culturally diverse student populations; and,

WHEREAS, school psychologists are specially trained to deliver a continuum of mental health services and academic supports that lower barriers to learning, enabling teachers to teach and students to learn; and,

WHEREAS, school psychologists facilitate collaboration to help parents and educators to identify and reduce risk factors, promote protective factors, create safe, caring schools, and access community resources; and,

WHEREAS, school psychologists are trained to assess student and school-based barriers to learning, utilize data-based decision-making, implement research-driven prevention and intervention strategies, and evaluate outcomes and improve accountability; and,

WHEREAS, the Illinois School Psychologists Association, an affiliate of the National Association of School Psychologists, is a not-for-profit professional association representing school psychologists in the State of Illinois. This year, they will recognize school psychologists in our state for their valuable service during the week of November 8-12:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 8-12, 2010 as **SCHOOL PSYCHOLOGY AWARENESS WEEK** in Illinois, in recognition of the vital role that school psychologists play in the personal and academic development of our state's children.

Issued by the Governor October 15, 2010

Filed by the Secretary of State October 25, 2010

**2010-374**

**Sudden Infant Death Syndrome Awareness Month**

WHEREAS, Sudden Infant Death Syndrome (SIDS) is the leading cause of death among infants from one to twelve months of age. Approximately 2,200 infants die from SIDS every year; and,

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WHEREAS, SIDS is the unexpected death of an infant under the age of one that remains unexplained after a complete examination is performed, including an autopsy, death scene investigation and review of case history; and,

WHEREAS, most victims of SIDS are under the age of six months. Furthermore, African-American infants are among the greatest at-risk group of infants; and,

WHEREAS, although there is currently no way to predict or prevent SIDS, many scientists agree that it is triggered when infants sleep on their stomachs; and,

WHEREAS, for that reason, the Back to Sleep campaign was launched in 1994 to encourage placing sleeping infants on their backs. By following the recommendations from this campaign, the risk of SIDS can be dramatically reduced and accidental infant suffocation deaths can be prevented; and,

WHEREAS, the death rate of SIDS has declined more than 60 percent since the inception of this campaign; and,

WHEREAS, in July of this year, House Bill 5930 was signed into law to help protect Illinois' newborn children from preventable injury and death. The new law, which goes into effect on January 1, 2011, requires hospitals to provide free SIDS educational materials to parents or guardians of newborns; and,

WHEREAS, the materials provided by hospitals will include information to help parents understand SIDS and lower their child's risk for it. Hospital staff will be required to review the materials with new parents and discuss ways to reduce the likelihood of SIDS prior to their discharge from the hospital; and,

WHEREAS, throughout the month of October, Sudden Infant Death Services of Illinois will hold events to distribute information and educate parents and families about SIDS in order to reduce the incidence of SIDS and prevent all accidental infant deaths:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2010 as **SUDDEN INFANT DEATH SYNDROME AWARENESS MONTH** in Illinois, to raise awareness about sudden unexplained infant death and to encourage infant safe sleep practices so that no parent will have to endure the tragedy of infant death.

Issued by the Governor October 15, 2010

Filed by the Secretary of State October 25, 2010

**2010-375**

## PROCLAMATIONS

**Flag Honors – Lance Corporal John T. Sparks**

WHEREAS, on Friday, October 8, United States Marine Corps Lance Corporal John T. Sparks of Chicago, Illinois died at age 23 while conducting combat operations in Helmand province, Afghanistan, where Lance Corporal Sparks was serving in support of Operation Enduring Freedom; and,

WHEREAS, Lance Corporal Sparks was assigned to the 3rd Battalion, 5th Marine Regiment, 1st Marine Division, based at Camp Pendleton, California; and,

WHEREAS, Lance Corporal Sparks attended Paul Robeson High School in Chicago, where he played football and wrestled; and,

WHEREAS, upon graduation from high school, Lance Corporal Sparks attended Westwood College where he received an associate's degree in criminal justice; and,

WHEREAS, Lance Corporal Sparks enlisted in the Marine Corps in February 2008. This was his second deployment; and,

WHEREAS, Lance Corporal Sparks earned a number of honors as a Marine, including the National Defense Service Medal and the Global War on Terrorism Service Medal. He has been posthumously awarded the Purple Heart and Combat Action Ribbon; and,

WHEREAS, a funeral will be held on Thursday, October 21 for Lance Corporal Sparks, who is survived by his mother:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on October 19, 2010 until sunset on October 21, 2010 in honor and remembrance of Lance Corporal Sparks, whose selfless service and sacrifice is an inspiration.

Issued by the Governor October 18, 2010

Filed by the Secretary of State October 25, 2010

**2010-376  
National Family Week**

WHEREAS, Illinois is blessed with a multitude of families - an essential part of the cultural, social, and spiritual fabric that makes up our state; and,

WHEREAS, strong families are the basis for strong communities; and,

## PROCLAMATIONS

WHEREAS, everyone has a role to play in making families successful, including neighborhood organizations, businesses, nonprofit agencies, policymakers, and of course the members of the families themselves; and,

WHEREAS, during Thanksgiving week, which is traditionally a time to gather with family to celebrate with one another, hundreds of communities across the country will celebrate National Family Week, with this year's theme "Connections Count"; and,

WHEREAS, it is fitting that we should take time to honor the importance of families, and recognize the special connections that support and strengthen families year-round; and,

WHEREAS, National Family Week: Connections Count embraces the premise that children live better lives when their families are strong, and families are strong when they live in communities that connect them to economic opportunities, social networks and services; and,

WHEREAS, the connections celebrated during National Family Week include access to reliable transportation, employment opportunities, education, child care, housing, health care, and support from community networks and institutions; and,

WHEREAS, for more than thirty years, the Alliance for Children and Families, along with state affiliate family service agencies, has recognized the week of Thanksgiving as National Family Week. In Illinois the effort is being led by the Child Care Association of Illinois; and,

WHEREAS, National Family Week is a time to recommit to enhancing and extending all of the connections that strengthen and enrich families; and,

WHEREAS, with the assistance and resources of family service agencies, we can help families of all shapes and sizes create a better future for all of Illinois:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 21-27, 2010 as **NATIONAL FAMILY WEEK** in Illinois, in recognition of the importance of families to our communities.

Issued by the Governor October 22, 2010

Filed by the Secretary of State October 25, 2010

**2010-377**

**Flag Honors – Lance Corporal Alec E. Catherwood**

## PROCLAMATIONS

WHEREAS, on Thursday, October 14, United States Marine Corps Lance Corporal Alec E. Catherwood of Byron, Illinois died at age 19 while conducting combat operations in Helmand province, Afghanistan, where Lance Corporal Catherwood was serving in support of Operation Enduring Freedom; and,

WHEREAS, Lance Corporal Catherwood was assigned to the 3rd Battalion, 5th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force based at Camp Pendleton, California; and,

WHEREAS, Lance Corporal Catherwood graduated from Byron High School in 2009 and enlisted in the Marine Corps on June 1, 2009. This was his first combat deployment; and,

WHEREAS, Lance Corporal Catherwood earned a number of honors as a Marine, including the Purple Heart, Combat Action Ribbon, National Defense Service Medal, Global War on Terrorism Service Medal and Korean Defense Service Medal; and,

WHEREAS, a funeral will be held on Saturday, October 23, 2010 for Lance Corporal Catherwood, who is survived by his parents and his fiancé:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff immediately until sunset on October 23, 2010 in honor and remembrance of Lance Corporal Catherwood, whose selfless service and sacrifice is an inspiration.

Issued by the Governor October 22, 2010

Filed by the Secretary of State October 25, 2010

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