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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 2013

Issue#	Rules Due Date	Date of Issue
1	December 26, 2012	January 4, 2013
2	December 31, 2012	January 11, 2013
3	January 7, 2013	January 18, 2013
4	January 14, 2013	January 25, 2013
5	January 22, 2013	February 1, 2013
6	January 28, 2013	February 8, 2013
7	February 4, 2013	February 15, 2013
8	February 11, 2013	February 22, 2013
9	February 19, 2013	March 1, 2013
10	February 25, 2013	March 8, 2013
11	March 4, 2013	March 15, 2013
12	March 11, 2013	March 22, 2013
13	March 18, 2013	March 29, 2013
14	March 25, 2013	April 5, 2013
15	April 1, 2013	April 12, 2013
16	April 8, 2013	April 19, 2013
17	April 15, 2013	April 26, 2013
18	April 22, 2013	May 3, 2013
19	April 29, 2013	May 10, 2013
20	May 6, 2013	May 17, 2013

21	May 13, 2013	May 24, 2013
22	May 20, 2013	May 31, 2013
23	May 28, 2013	June 7, 2013
24	June 3, 2013	June 14, 2013
25	June 10, 2013	June 21, 2013
26	June 17, 2013	June 28, 2013
27	June 24, 2013	July 5, 2013
28	July 1, 2013	July 12, 2013
29	July 8, 2013	July 19, 2013
30	July 15, 2013	July 26, 2013
31	July 22, 2013	August 2, 2013
32	July 29, 2013	August 9, 2013
33	August 5, 2013	August 16, 2013
34	August 12, 2013	August 23, 2013
35	August 19, 2013	August 30, 2013
36	August 26, 2013	September 6, 2013
37	September 3, 2013	September 13, 2013
38	September 9, 2013	September 20, 2013
39	September 16, 2013	September 27, 2013
40	September 23, 2013	October 4, 2013
41	September 30, 2013	October 11, 2013
42	October 7, 2013	October 18, 2013
43	October 15, 2013	October 25, 2013
44	October 21, 2013	November 1, 2013
45	October 28, 2013	November 8, 2013
46	November 4, 2013	November 15, 2013
47	November 12, 2013	November 22, 2013
48	November 18, 2013	December 2, 2013
49	November 25, 2013	December 6, 2013
50	December 2, 2013	December 13, 2013
51	December 9, 2013	December 20, 2013
52	December 16, 2013	December 27, 2013

OFFICE OF THE COMPTROLLER

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Illinois Funeral or Burial Funds Act
- 2) Code Citation: 38 Ill. Adm. Code 610
- 3) Section Number: 610.EXHIBIT A Proposed Action: Amend
- 4) Statutory Authority: Implementing Section 1a-1 of the Illinois Funeral or Burial Funds Act [225 ILCS 45/1a-1]. Authorized by Section 1a-1 of the Illinois Funeral or Burial Funds Act [225 ILCS 45/1a-1] and Section 21 of the State Comptroller Act [15 ILCS 405/21]
- 5) A Complete Description of the Subjects and Issues Involved: The amendment updates the consumer protection guide to include new statutory protections created by PA 96-879 (eff. 2/2/10). Specifically, this amendment explains to consumers the function of a corporate fiduciary trustee and informs consumers of a new consumer protection fund that now exists for pre-need funeral or burial purchases.
- 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 proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No.
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a state mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Alissa Camp
Chief Legal Counsel
Illinois Office of the Comptroller

OFFICE OF THE COMPTROLLER

NOTICE OF PROPOSED AMENDMENT

325 W. Adams St.
Springfield, IL 62704

217/782-6000
campaj@mail.ioc.state.il.us

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Small funeral and burial homes
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent Agendas because IOC did not anticipate the need for this rulemaking at the time the Agendas were published.

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER V: COMPTROLLERPART 610
ILLINOIS FUNERAL OR BURIAL FUNDS ACT

Section	
610.10	Statutory Authority
610.20	Application
610.30	Definitions
610.40	Classification of Pre-Need Contract by Funding Methods
610.50	Requirements for all Pre-Need Contracts
610.60	Trust Investment in Life Insurance or Annuities
610.70	Requirements for Pre-Need Booklet
610.80	Licensing of Sellers of Pre-Need Contracts Funded by Life Insurance or Tax-Deferred Annuity
610.90	Schedule of Charges for Examinations for Licensee of Pre-Need Contracts Funded by Life Insurance or Tax-Deferred Annuity
610.EXHIBIT A	Illinois Consumer Consumers' Guide to Pre-Need Funeral and Burial Purchases Planning

AUTHORITY: Implementing Sections 1a-1, 2(d), 2a, 3, 3f and 4a and authorized by Sections 1a-1, 2 and 3 of the Illinois Funeral or Burial Funds Act [225 ILCS 45/1a-1, 2, 2(d), 2a, 3, 3f and 4a].

SOURCE: Adopted at 20 Ill. Reg. 9530, effective July 3, 1996; amended at 21 Ill. Reg. 17104, effective December 5, 1997; amended at 26 Ill. Reg. 5772, effective April 10, 2002; amended at 37 Ill. Reg. _____, effective _____.

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Section 610.EXHIBIT A Illinois ~~Consumer~~Consumers' Guide to Pre-Need Funeral and Burial Purchases**ILLINOIS ~~CONSUMER~~CONSUMERS' GUIDE TO PRE-NEED FUNERAL AND BURIAL PURCHASES****What Is the Funeral or Burial Funds Act?**

The Illinois Funeral or Burial Funds Act, [225 ILCS 45] (the law), gives consumers certain rights and protections when they sets forth rights protecting consumers who purchase funeral or burial services and/or merchandise in advance of need (pre-need). The State Comptroller has the duty to administer and enforce jurisdiction over the administration and enforcement of this law.

~~This guide is intended to assist you in making decisions in connection with the purchase of funeral services and merchandise—pre-need—and to advise you of your rights and protections under Illinois law.~~

What is "Pre-Need" Funeral or Burial Purchasing?

The purchase of pre-need funeral or burial merchandise and services occurs when you enter into an agreement to acquire and pay for funeral or burial merchandise and services before you need them. A pre-need funeral or burial purchase is purchasing, in advance, funeral services and merchandise that you select for yourself or loved ones. In connection with the purchase of pre-need services and merchandise, you enter into a pre-need contract with the seller, funeral home or cemetery.

What Is a Pre-Need Sales Contract?

A pre-need funeral or burial sales contract is a legal agreement between a consumer and an insurance company, a funeral home, or a cemetery (seller) for funeral or burial merchandise and services. The merchandise and services will be supplied at a future date by a funeral home or a cemetery (provider).

Sellers of Pre-Need Services and Merchandise Must Be Licensed. What are Some of the Protections Provided to you by Illinois Law?

Sellers of pre-need services and/or merchandise must be licensed by the State of Illinois through the Office of the Comptroller. You should verify that the person with whom you are doing

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business is licensed to sell pre-need services and merchandise before you make your purchase. You may contact the Comptroller's Office to verify whether a seller is licensed.

What Services and Merchandise are Covered by the Funeral or Burial Funds Act?

The law covers the purchase of funeral services, clothing, caskets, grave boxes, grave liners, burial containers commonly referred to as burial vaults and urns. Sales of cemetery services, such as the preparation of a plot or the placement of a headstone, or and cemetery merchandise, such as grave markers and mausoleums, are not covered by the law. The purchase of cemetery services and merchandise may be covered by the Illinois Pre-Need Cemetery Sales Act [\[815 ILCS 390\]](#) and Cemetery Care Act [\[760 ILCS 100\]](#). ~~Those laws are also administered by the Comptroller.~~ If you have any questions about which law applies to your purchase, you may concerning those laws, you should contact the Comptroller's Office for assistance.

~~Be Sure to Read Your Contract.~~

~~All pre-need contracts sold in Illinois must contain disclosures to assist consumers in their purchase of pre-need services and merchandise. Required disclosures include: a clear identification of the seller's name and address; the provider's name and address; if the provider has branch locations, an opportunity for the purchaser to identify on the contract the branch at which the funeral is to be performed; the purchaser and the beneficiary; a complete description of the goods and/or services purchased; clear notice as to whether the contract is for a guaranteed or non-guaranteed price; how you will pay for the services and/or merchandise (i.e., trust account, life insurance policy or annuity); and the cancellation and penalty policy of the seller.~~

What Must the Seller Tell You in a Pre-Need Contract?

All pre-need contracts sold in Illinois must contain certain disclosures to help you the consumer understand your rights. Always check your contract for the following information:

- The seller's name and address;
- The provider's name and address;
- When a provider has branch locations, a place in the contract where the consumer may select the branch where the funeral or burial will be performed;
- The buyer and the beneficiary;

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- A complete description of the merchandise and/or services purchased;
- Whether the contract is for a guaranteed or non-guaranteed price;
- How the merchandise and/or services will be funded (i.e., through a trust account, life insurance policy or annuity);
- The name of the trustee or the insurance provider;
- The governmental body that regulates the trustee or the insurance provider; and
- The seller's policy and penalties if the buyer cancels the contract or defaults on payment.

What are Guaranteed and Non-Guaranteed Contracts?

A "guaranteed contract" ~~"Guaranteed" Contract~~ means that you are guaranteed the ~~cemetary or funeral home~~ guarantees to provide you with the services and/or merchandise you selected for the amount of money stated in the contract. ~~You~~ This means that you or your estate will not be required to pay any additional costs for the items guaranteed unless, except for unexpected charges are incurred ~~(which may include, for example, the need for shipment of remains from a distance).~~

A "non-guaranteed" contract means that the price of the services or merchandise you select will be determined at the time they are needed. Any payments you make under the contract act like a deposit to reduce the out-of-pocket expense at the time of need. If the "deposit" does not cover the entire cost of the merchandise or services, you or your estate pay the difference at the time of need. If your contract does not guarantee a price, it must clearly state "non-guaranteed contract". Be sure to read your contract carefully.

Some non-guaranteed price contracts are set up to later become guaranteed price contracts. In these cases, the contract must clearly state the time or event when the price becomes guaranteed and the nature of the guarantee. If the contract does not guarantee the prices charged it must be clearly identified as a "Non-Guaranteed Contract." The amount you pay will be determined at the time the services and/or the merchandise are needed. Any amount you pay pre-need will be consider a deposit to be used toward the purchase price, which will earn interest.

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~~If a non-guaranteed contract may subsequently become guaranteed, the contract shall clearly disclose the nature of the guarantee and the time, occurrence, or event upon which the contract shall become a guaranteed price contract.~~

Pre-Need Contracts Funded by Life Insurance Policies and Annuities vs. Pre-Need Contracts Funded by Trusts.

~~Under Illinois law, all pre-need contracts must be funded through an insurance policy, a tax deferred annuity, or a trust. Your contract must clearly state which of these three funding mechanisms applies to it.~~

a. Life Insurance Policies and Annuities

~~Pre-need contracts funded by life insurance policies or tax-deferred annuities are planning tools offered by insurance companies. The contracts may be purchased directly from an insurance company or through a funeral home or cemetery acting as a broker on behalf of an insurance company. If you buy through a funeral home or cemetery acting as a broker, any payments you make to the funeral home or cemetery must be mailed to the insurance company within 30 days.~~

~~Your insurance policy will provide the details of the coverage, including the cost, payout provisions and cancellation fees. Be sure to read both the contract and the insurance policy carefully.~~

b. Trust Accounts

~~When funeral homes or cemeteries sell pre-need contracts without the involvement of an insurance company, these contracts must be funded by a trust. The seller must send a certain percentage of your payments to a trustee for deposit in a trust account. The trustee is an independent company that must hold this money until the merchandise or services are actually needed (or until you cancel your contract and seek a refund). Review your contract for the name of the trustee and the trustee's contact information.~~

~~Sellers must send 85% of the purchase price of outer burial containers (burial vaults) and 95% of the purchase price of all other merchandise and services to the trustee within 30 days. Each year you will receive a trust account statement (much like a bank account statement) from the trustee. This is an important consumer protection, so be sure to watch for your annual statement. If you do not receive an~~

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annual statement, contact the trustee named on your contract. If the trustee cannot be located or cannot assist you, contact the Comptroller.

~~Consumer Payments on Pre-need Services and Merchandise Must Be Placed in a Trust Account.~~

~~When you purchase pre-need services and merchandise, the seller must place a certain percentage of the costs of the purchase price in a trust account to ensure delivery at the time of need; 95% of the purchase price of all services and merchandise and 85% of the purchase price of outer burial containers (burial vaults) must be placed into trust. Funds must be deposited in the trust account within 30 days.~~

~~May I Fund a Pre-need Arrangement with a Life Insurance Policy or Annuity?~~

~~Yes, under Illinois law a pre-need contract may be funded through an insurance policy or tax deferred annuity. Your pre-need contract will identify the provider of funeral or cemetery services and merchandise. It will also state whether the contract is "Guaranteed" or "Non-Guaranteed". Your insurance policy will provide the details of the coverage, including the cost, payout provisions and cancellation fees. Funds must be mailed to the insurance company within 30 days. Be sure to read your contract and insurance policy carefully.~~

Can I Get My Money Back If I Change My Mind?

Yes, unless a pre-need contract is made irrevocable, you may cancel at any time depending on the circumstances. The penalties for cancelling a pre-need contract will be different depending upon when the contract is cancelled. ~~If a pre-need contract is subject to the Federal Trade Commission (FTC) three-day cancellation rule (which applies to door-to-door sales or other sales made at a place other than the seller's place of business) you may cancel the contract within three business days after it is signed without any penalty.~~

a. Contracts Sold Outside the Seller's Place of Business

If you did not purchase your contract at the seller's place of business, including but not limited to door-to-door sales, then the contract is subject to the Federal Trade Commission's "Cooling-Off Period for Door-to-Door Sales" rule. Under this rule, you have the right to cancel the contract within three business days **after** signing it without any penalty.

b. Paid in Full Contracts Cancelled Before the Time of Need

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If you cancel a contract for services or merchandise funded by a trust after it is paid in full but before the time of need, the seller must refund 95% of the purchase price plus interest. For contracts for outer burial containers funded by a trust, the seller must refund 85% of the purchase price plus interest.

If you cancel a contract funded by an insurance policy or annuity, you are entitled to the cash surrender value of the insurance policy or annuity. (Cancellation of an insurance policy does not necessarily cancel the pre-need contract.)

c. Paid in Full Contracts Cancelled After the Time of Need

If a contract is paid in full but it is decided at the time of need that the funeral or burial will be held elsewhere or that the merchandise or services will not be used, the seller may keep 10% of the payments made under the contract or \$300, whichever is less. The remainder of the trust funds or insurance or annuity proceeds will be provided to the legal heirs or according to a probate action.

d. Partially Paid Contracts

If you cancel before your contract is paid in full or if you default on payments, the seller may keep 25% of the payments made under the contract or \$300, whichever is less.

~~If a pre-need contract is funded by an insurance policy, Illinois law allows you to cancel the insurance policy within 30 days without penalty. Cancellation of an insurance policy does not necessarily serve to cancel the pre-need contract. After 30 days you are entitled to the accrued "cash surrender value" of the policy upon cancellation.~~

~~Unless made irrevocable, you may cancel a pre-need contract at any time. If cancellation occurs as a result of your default on payments, the seller is permitted to retain the lesser of 25% of the sales proceeds or \$300.~~

~~If the purchaser cancels the contract after it is paid in full, upon receipt of written cancellation notice from the purchaser, the seller must refund to the purchaser the entire amount held in trust attributable to undelivered merchandise and unperformed services, including undistributed interest earned thereon or the insurance company must return the cash surrender value of the cancelled insurance policy or annuity.~~

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~~If no funeral merchandise or services are provided or if the funeral is conducted by another person, the seller may keep no more than 10% of the payments made under the contract or \$300, whichever sum is less. The remainder of the trust funds shall be returned by the seller or insurance or annuity proceeds shall be forwarded by the insurance company to the legal heirs of the deceased or as determined by probate action.~~

The Illinois Pre-Need Funeral Consumer Protection Fund

~~If you are not provided the funeral or burial merchandise promised in the contract and are not provided a refund, you or your estate may be able to recover your losses from the State's consumer protection fund. Contact the Comptroller's Office to apply for consumer protection funds.~~

What Can ~~You~~ Do If ~~You~~ Believe ~~You Were~~ ~~I Am~~ Treated Unfairly?

If you think that you have been a victim of unfair or illegal practices in the handling of pre-need funds, you may file a written complaint with the Office of the Comptroller, ~~Pre-Need Licensing and Certification Enforcement (PLACE) Division~~~~Department of Cemetery and Burial Trust~~, James R. Thompson Center, Suite 15-500, 100 West Randolph Street, Chicago, Illinois 60601. In addition, the State Attorney General can seek a court order for restitution and issuance of fines. If you believe that improprieties exist in connection with the sale of insurance or annuities used to fund a pre-need contract, you can file a complaint with the Illinois Department of Insurance, 320 West Washington, Floor 4, Springfield, Illinois 62767.

~~For more information on preplanning or prepaying, see your local cemetery or funeral director or the:~~

~~Illinois Funeral Director's Association
215 South Grand Avenue West
Springfield, Illinois 62704~~

~~or~~

~~Funeral Directors Services Association
499 Northgate Parkway
Wheeling, Illinois 60090-2646~~

~~or~~

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~~Illinois Cemetery and Funeral Home Association
808 Osage Street
Normal, Illinois 61761~~

~~or~~

~~Cook County Association of Funeral Home Owners, Inc.
4114 South Michigan Avenue
Chicago, Illinois 60653~~

~~or~~

~~Alliance of Illinois Cemeterians
1441 Monument Avenue
Springfield, Illinois 62702~~

Questions or Concerns?

If you have questions or concerns about your pre-need contract, please call the Comptroller's toll-free consumer hotline at (877)203-3401; mail your inquiry to the Illinois Office of the Comptroller, PLACE Division, 100 West Randolph Street, Suite 15-500, Chicago, Illinois 60601; or visit our PLACE webpage at <http://www.ioc.state.il.us/office/place/>.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Claim Eligible to be Offset
- 2) Code Citation: 74 Ill. Adm. Code 285
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
285.1101	Amend
285.1102	Amend
285.1103	Amend
285.1104	Amend
285.1105	Amend
285.1106	Amend
285.1107	Amend
285.1108	Amend
- 4) Statutory Authority: Authorized by Section 21 of the State Comptroller Act [15 ILCS 405/21]. Implementing Section 10.05 of the State Comptroller Act [15 ILCS 405/10.05] and Sections 5 and 10(i-1) of the Illinois State Collection Act [30 ILCS 210/5 and 10(i-1)]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments update the rules to conform to current statutory provisions. Specifically, the threshold for automatic reporting of debts to the offset system has been lowered from \$1,000 to \$250. The amendment also extends the protest period for persons offset from 30 to 60 days.
- 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 proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Alissa J. Camp
General Counsel
Office of the Comptroller
325 W. Adams
Springfield, IL 62704

217/782-6000
CampAJ@mail.ioc.state.il.us

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking will not impact small businesses, small municipalities, and not-for-profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: State agencies currently comply with the Comptroller's Offset System requirements.
- C) Types of Professional skills necessary for compliance: None

- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because The Illinois Office of the Comptroller did not anticipate the the need for this rulemaking at the time for submittal of a Regulatory Agenda.

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

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TITLE 74: PUBLIC FINANCE
CHAPTER II: COMPTROLLERPART 285
CLAIM ELIGIBLE TO BE OFFSET

Section

285.1100	Foreword
285.1101	Definitions
285.1102	Request for Processing a Claim Under Section 10.05 of the Act
285.1103	Warrants Subject to Deduction
285.1104	Processing a Claim Under Section 10.05
285.1105	Wage Deductions
285.1106	Ascertaining the Amount Due and Payable to the State
285.1107	Notification of the Comptroller's Exercise of Section 10.05
285.1108	Record Retention
285.1109	Accounting for Recovery
285.1110	Transition Period

AUTHORITY: Implementing Section 10.05 of the State Comptroller Act [15 ILCS 405/10.05] and Sections 5 and 10(i-1) of the Illinois State Collection Act [30 ILCS 210/5 and 10(i-1)]. Authorized by Section 21 of the State Comptroller Act [15 ILCS 405/21].

SOURCE: Adopted at 5 Ill. Reg. 423, effective December 30, 1980; codified at 5 Ill. Reg. 10598; amended at 8 Ill. Reg. 2451, effective February 9, 1984; amended at 10 Ill. Reg. 10538, effective June 3, 1986; amended at 11 Ill. Reg. 11996, effective July 7, 1987; amended at 11 Ill. Reg. 18630, effective October 29, 1987; amended at 15 Ill. Reg. 5070, effective March 21, 1991; amended at 19 Ill. Reg. 227, effective December 30, 1994; emergency amendment at 24 Ill. Reg. 17371, effective November 1, 2000, for a maximum of 150 days; emergency expired March 30, 2001; amended at 37 Ill. Reg. _____, effective _____.

Section 285.1101 Definitions

As used in this Part unless the context indicates otherwise, the following terms shall have the meanings specified:

"Account or claim eligible to be offset"; means an amount owed to the State or to any of its agencies or instrumentalities or other amount authorized by statute to be collected through offset ~~that~~^{which} represents:

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an outstanding liability of a person to a fund in the State Treasury or other fund held by the State Treasurer;~~;~~

an outstanding liability of a person to a fund not held by the State Treasurer, ~~when that~~~~where such~~ amount exceeds \$~~10~~~~50~~;

past due child support owed by a person as a result of support action being taken by the Department of ~~Healthcare and Family Services~~~~Public Aid~~ under Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X], whether or not ~~that~~~~such~~ support is owed to the State;~~;~~

delinquent or defaulted amounts due and owing from a borrower, whether or not due and owing to the State, on any loan guaranteed by the Illinois State Scholarship Commission under the Higher Education Student Assistance Act [110 ILCS 947] or on any "eligible loan" as that term is defined under the Education Loan Purchase Program Law [110 ILCS 947/125 to 170];~~;~~ or

any amounts recoverable under Section 120 of the Higher Education Student Assistance Act [110 ILCS 947/120], whether or not any amounts so recoverable are due and owing to the State, in a civil action from a person who received a scholarship, grant, monetary award or guaranteed loan.

"Act"~~;~~ means the "State Comptroller Act" [15 ILCS 405].

"Comptroller"~~;~~ means the Comptroller of the State of Illinois or any employee of the Office of the Comptroller authorized by the Comptroller,~~directly or indirectly by one or more redeligitations of authority~~, to perform the functions and duties required by the Act or this Part.

"Disposable earnings"~~;~~ means that part of the earnings of an individual remaining after deduction of any amounts required by law to be withheld (~~e. g. Federal and State income tax withholding; Social Security (F.I.C.A.) withholding; pension/retirement withholding~~).

"Net amount of the warrant"~~;~~ means ~~the~~~~that~~ amount of money,~~which~~ a State agency has authorized the Comptroller to order the payment of, remaining after

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all involuntary and voluntary deductions are made and deferred compensation is deducted.

"Offset"; means a contrary claim or demand by which a given person's claim to a warrant of the State Comptroller may be lessened or cancelled.

"Person"; means any individual, corporation, company, association, firm, partnership, society, joint stock company, unit of local government or any other organization.

"Person subject to the offset"; means the payee of any warrant from which the Comptroller has offset an account or claim eligible to be offset.

"Received a voucher"; means that point in time when the Comptroller has physically received the voucher in-house and has date-stamped the voucher.

"Section 10.05 of the Act"; means Section 10.05 of the State Comptroller Act [15 ILCS 405/10.05].

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 285.1102 Request for Processing a Claim Under Section 10.05 of the Act

- a) All debts that exceed \$~~2501,000~~ and are more than one ~~(1)~~-year past due shall be placed in the Comptroller's Offset System unless ~~except~~:
- 1) ~~if~~ the State agency to which the debt is owed has entered into a deferred payment plan or other settlement agreement with the debtor; or
 - 2) ~~if~~ the State agency to which the debt is owed demonstrates to the Comptroller's satisfaction that use of the Comptroller's Offset System is not cost effective. ~~The~~ ~~Such~~ demonstration shall be based on efficiency to the State and maximizing the portion of the debt that will be recovered by the State.
- b) The Comptroller will not process a claim under Section 10.05 of the Act until the Comptroller has received a statement of notification from the State agency that the debt has been established through notice and opportunity to be heard.

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- c) For purposes of Section 10.05 of the Act and this Part ~~promulgated pursuant thereto~~, "statement of notification" of an account or claim eligible to be offset shall be deemed to occur when the State agency in favor of which the account or claim has arisen has submitted to the Comptroller; the following information:
- 1) the name and Social Security Number or Federal Employer's Identification Number of the person against whom the claim exists;
 - 2) the amount of the claim then due and payable to the ~~State~~ state;
 - 3) the reason why there is an amount due to the State (i.e., income tax liability, overpayment, etc.);
 - 4) the time period to which the claim is attributable;
 - 5) the fund to which the debt is owed;
 - 6) a description of the type of notification given to the person against whom the claim exists and the type of opportunity to be heard afforded ~~that such~~ person;
 - 7) a statement as to the outcome of any hearings or other proceedings held to establish the debt, or a statement that no hearing was requested; and
 - 8) the date of final determination of the debt.
- d) ~~The~~ Such statement required by subsections (b) and (c) shall be executed by the person or persons who are authorized to issue, certify and approve vouchers for the agency under Sections 10 and 11 of the State Finance Act [30 ILCS 105/10 and 11]. The authority to execute the statement of the claim required by this Section may be delegated ~~above specified vouchering authority may delegate~~ to a responsible person or persons ~~the authority to execute the statement of the claim required by this Section~~. This delegation of authority shall be made on forms provided by the Comptroller and shall contain a signature sample of the person ~~person(s)~~ to whom the delegation is made.
- e) A State agency ~~that~~ which has submitted a claim for offset must notify the Comptroller as soon as ~~is~~ possible, but in no case later than 30 days, after receiving notice of a change in the status of an offset claim. A change in status

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may occur due to circumstances such as payments received other than through a successful offset, the filing of a bankruptcy petition, or the death of the debtor.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 285.1103 Warrants Subject to Deduction

- a) Except ~~as where~~ prohibited by federal statute, federal regulation or State statute, the Comptroller shall deduct the amount the Comptroller ascertains is due from any warrant payable to any person against whom there exists an account or claim eligible to be offset.
- b) This amount due may be deducted from any warrant, whether or not the warrant originates from the same agency under which the account or claim eligible to be offset arose, ~~except that the Comptroller shall not deduct from funds held by the State Treasurer under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25].~~
- c) If, however, the account or claim eligible to be offset arises from a payroll transaction or other regular payment ~~that, which~~ is likely to be followed regularly by similar transactions, the Comptroller may deduct the account or claim eligible to be offset from the next regular transaction involving the agency under which the account or claim arose.
- d) A settlement payment by the State or any of its agencies to release any pending or potential claim against the State is eligible to be offset.
- e) The following are not eligible to be offset:
 - 1) A warrant, payment or transfer in favor of the State of Illinois, or to any officer, board, commission ~~or and~~ agency created by the Constitution, whether in the executive, legislative or judicial branch, but other than the circuit court;
 - 2) ~~Any~~ Any officer, department, board, commission ~~or,~~ or, agency, of the State government ~~which is~~ created by or pursuant to statute, other than any unit of local government and ~~its~~ their officers, school districts and boards of election commissioners;

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3) ~~Any~~ administrative unit ~~or~~ corporate outgrowth of ~~any of the entities listed in subsections (e)(1) and (2) the above and as may be~~ created by executive order of the Governor ~~is not eligible to be offset~~.

f) ~~The Comptroller shall not deduct from funds held by the State Treasurer under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25] or for payments to institutions from the Illinois Prepaid Tuition Trust Fund (unless the Trust Fund moneys are used for child support). [15 ILCS 405/10.05]~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 285.1104 Processing a Claim Under Section 10.05

The following provisions shall govern the processing of a claim under Section 10.05 of the Act:

- a) Before making an offset, the Comptroller shall review the information provided by the State agency notifying the Comptroller of a claim and shall ascertain from that information ~~therefrom~~ the amount due and payable.
- b) The Comptroller shall charge the State agency ~~that~~ which submits a voucher, against which ~~voucher~~ an offset claim is applied, for the full amount of the voucher submitted. The Comptroller shall draw a warrant on the treasury or on other funds held by the State Treasurer in the amount of the claim eligible to be offset and deposit that warrant into the State Offset Claims Fund. The State Offset Claims Fund shall be a trust fund established and administered by the Comptroller for the deposit of monies deducted from a person's warrant pursuant to an offset and the subsequent payment of monies back to either the State agency requesting the offset or the original payee. If, after ~~60~~ thirty days have elapsed from the date the Comptroller gives notice of the offset as prescribed in Section 285.1106(a), no protest is made by the person subject to the offset, the Comptroller shall issue a warrant on the State Offset Claims Fund for the amount of that deposit to the agency entitled to the offset ~~thereto~~. If a protest ~~conforming which conforms~~ to the requirements of Section 285.1106(b) is made, the Comptroller shall not issue ~~the such~~ warrant to the State agency ~~on the State Offset Claims Fund~~ until the Comptroller ascertains the amount due and payable as provided in Section 285.1106(c).
- c) If the Comptroller receives a proper request for a claim after he or she has drawn

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a ~~warrant or warrants~~warrant(s), the Comptroller shall, ~~when~~where feasible, reprocess the warrant in order that the offset may be taken, as provided for in this Section.

- d) If the amount of the claim eligible to be offset is less than the amount to which the person is entitled, the Comptroller shall draw a warrant for the balance of the amount of the voucher against which the Comptroller has made the offset and shall issue that warrant to the person subject to the offset.
- e) In cases ~~in which~~where offsets are to be made against an employee's wages, no more than 25% of the employee's disposable earnings may be subject to offset. Final compensation payments paid to a person, when the person leaves the employ of a State agency, for accrued vacation ~~or~~; sick leave or overtime are exempt from the 25% limitation. State agencies may submit claims for offset for the entire amount owed to the State agency and the Comptroller's Offset System will compute the required 25% available for offset. In the event that the calculation of 25% of the employee's disposable earnings exceeds the net amount of the warrant (i.e., the employee's take-home pay), that employee's payroll voucher will be returned to the submitting ~~State~~ agency. A payroll reversal will be processed and the employee's voluntary deductions must be cancelled or reduced so that the employee's take-home pay will be sufficient to satisfy the amount calculated as available for offset. ~~State agencies~~Agencies should contact their employees to determine which of the voluntary deductions are to be cancelled or reduced.
- f) The limitations set forth in subsection (e) ~~above~~ apply to:
- 1) wage or salary payments; and
 - 2) regular and continuing contractual payments made to an individual for personal services paid on a contractual payroll.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 285.1105 Wage Deductions

Section 10.05 claims ~~arising under this Part~~ have priority over all wage deduction summonses. If the amount of money represented by the voucher against which the Comptroller is making an offset ~~under Rule 1104 (74 Ill. Adm. Code 285.1104)~~ is subject to a wage deduction and is

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insufficient to satisfy the amount required to be offset, the Comptroller shall make an offset against any amounts that were deducted from that warrant and placed in the Garnishment Trust Fund.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 285.1106 Ascertaining the Amount Due and Payable to the State

- a) Upon processing a ~~Section 10.05~~ claim under Section 10.05 of the Act, the Comptroller shall, as soon as is practicable, give notice in writing to the person subject to the offset. ~~The which~~ notice shall:
- 1) ~~shall~~ state that a request has been made pursuant to Section 10.05 of the State Comptroller Act to make an offset against any warrant on funds held by the State Treasurer ~~that which~~ is now or ~~that which~~ may become payable to that person;
 - 2) ~~shall~~ identify the State agency submitting the offset request and the reason for ~~thesueh~~ request; and
 - 3) ~~shall~~ inform the person that, if he or she does not owe any or all of the amount claimed to be due and payable to the State, the person may, within ~~6030~~ days after the Comptroller gives of the Comptroller's giving notice, make a written protest as prescribed in subsection (b) ~~of this section~~. The notice to the person subject to the offset required by this subsection (a) shall be deemed to have been given if ~~thesueh~~ notice is enclosed in an envelope plainly addressed to ~~thesueh~~ person, United States postage fully prepaid, and deposited in the United States mail.
- b) Persons wishing to make a protest to the Section 10.05 offset shall, within ~~6030~~ days after the Comptroller gives of the Comptroller's giving notice as prescribed in subsection (a) ~~above~~, notify the Comptroller in writing of:
- 1) the reasons for contesting the claim of the State;
 - 2) the amount, if any, that the person acknowledges to be due and payable to the State; and
 - 3) any other information that will enable the Comptroller to determine the

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amount, if any, that is due and payable to the State.

- c) Upon receipt of a timely protest, the Comptroller shall determine the amount due and payable to the State. This determination shall be made in light of all information relating to the transaction in the possession of the Comptroller and any other information the Comptroller may reasonably request and obtain from the State agency and the person subject to the offset.
- d) If the Comptroller requests information from the State agency relating to the offset, the State agency shall respond within 90 days ~~after~~ the Comptroller's request. The Comptroller may grant a State agency an additional 90 day extension of time to respond for the following reasons:
 - 1) the State agency is actively pursuing further investigation;
 - 2) the matter is in active settlement negotiations; or
 - 3) other good cause shown by the State agency.
- e) From the deposit into the State Offset Claim Fund made pursuant to Section ~~285.1104(c)~~ ~~(74 Ill. Adm. Code Section 285.1104(e))~~, the Comptroller shall issue a warrant to the appropriate fund to the credit of the entitled State agency ~~entitled thereto~~, for the amount found due and payable to the State. Any balance of that deposit shall be returned to the person subject to the offset.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 285.1107 Notification of the Comptroller's Exercise of Section 10.05

Whenever the Comptroller exercises his or her offset authority granted under the Act and this Part, Section 10.05, the person subject to the offset and the agency that originated the voucher shall be sent a copy of the voucher against which the deduction was made, or a written statement containing all relevant information from the voucher. The written statement shall include the reason for the deduction and shall indicate the amount of money deducted. The person subject to the offset and the agency originating the voucher shall receive a copy of the written statement; however, the agency may waive its right to receive the written statement and the voucher. At the request of the State agency submitting the claim for offset, the Comptroller shall notify thesaid State agency by letter or other means of the offset including the amount of money deducted.

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(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 285.1108 Record Retention

| The Comptroller shall retain a copy ~~of the written statement~~ of the reason for the deduction in accordance with the State Records Act [5 ILCS 160] and the State Comptroller Act [15 ILCS 405].

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Administrative Procedures for General Professional Regulation under the Administrative Code
- 2) Code Citation: 68 Ill. Adm. Code 1130
- 3) Section Number: 1130.200 Proposed Action:
New Section
- 4) Statutory Authority: Implementing the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(i)]
- 5) A Complete Description of the Subjects and Issues Involved: The various licensing Acts administered by the Department authorize the Department to impose disciplinary sanctions against the licenses of licensees found to have violated their respective licensing Acts. This rulemaking establishes factors to be used in aggravation and mitigation to determine the appropriate sanction and provides licensees and reviewing courts with notice of the Department's decision making process.
- 6) Any published studies or reports, along with the sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking has no impact on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Craig Cellini, Office of the General Counsel
Department of Financial and Professional Regulation
320 West Washington, 3rd Floor
Springfield, Illinois 62786

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping, or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the agency's 2 most recent agendas because the Department did not anticipate the need for rulemaking at the time the Agendas was published.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER a: ADMINISTRATIVE RULES

PART 1130

ADMINISTRATIVE PROCEDURES FOR GENERAL PROFESSIONAL REGULATION
UNDER THE ADMINISTRATIVE CODE

SUBPART A: GENERAL

Section
1130.10 Definitions

SUBPART B: NON-BINDING, ADVISORY OPINIONS ON CRIMINAL CONVICTIONS

Section
1130.20 Request for Non-Binding, Advisory Opinion
1130.30 Board Review
1130.40 Confidentiality of Records

SUBPART C: PERMANENT REVOCATIONS

Section
1130.100 Notice of Intent to Issue Permanent Revocation Order
1130.110 Licensed Health Care Worker
1130.120 Forcible Felony
1130.130 Chaperone Orders

SUBPART D: DISCIPLINARY SANCTIONS

Section
1130.200 Disciplinary Sanctions

1130.APPENDIX A Notice of Order Requiring Chaperone

AUTHORITY: Implementing Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

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SOURCE: Adopted at 35 Ill. Reg. 7956, effective May 20, 2011; amended at 37 Ill. Reg. 1192, effective February 1, 2013; amended at 37 Ill. Reg. _____, effective _____.

SUBPART D: DISCIPLINARY SANCTIONSSection 1130.200 Disciplinary Sanctions

Upon a finding by the Department that a person has committed a violation of any licensing Act administered by the Department with regard to licenses, certificates or authorities of persons exercising their respective professions, trades or occupations, the Department may revoke, suspend, refuse to renew, place on probationary status, fine, or take any other disciplinary action as authorized in any licensing Act administered by the Department with regard to those licenses, certificates or authorities. When making a determination of the appropriate disciplinary sanction to be imposed, the Department shall consider, but is not limited to, the following factors in aggravation and mitigation:

- a) Factors in Aggravation
 - 1) The seriousness of the offenses;
 - 2) The presence of multiple offenses;
 - 3) Prior disciplinary history, including actions taken by other agencies in this State or by other states or jurisdictions, hospitals, healthcare facilities, residency programs, employers, insurance providers, or any of the armed forces of the United States or any state;
 - 4) The impact of the offenses on any injured party;
 - 5) The vulnerability of any injured party when considering such elements as, but not limited to, the injured party's age, disability or mental illness;
 - 6) The motive for the offense;
 - 7) The lack of contrition for the offenses;
 - 8) Financial gain as a result of committing the offenses; and

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- 9) The lack of cooperation with the Department or other investigative authorities.
- b) Factors in Mitigation
 - 1) The lack of prior disciplinary action by the Department or by other agencies in this State or by other states or jurisdictions, hospitals, healthcare facilities, residency programs, employers, insurance providers, or any of the armed forces of the United States or any state;
 - 2) Contrition for the offenses;
 - 3) Cooperation with the Department or other investigative authorities;
 - 4) Restitution to injured parties;
 - 5) Self-reporting of the misconduct; and
 - 6) Any voluntary remedial actions taken.

(Source: Added at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1800.110	Amendment
1800.230	Amendment
1800.240	Amendment
1800.250	Amendment
1800.260	Amendment
1800.420	Amendment
1800.560	Amendment
1800.590	New Section
- 4) Statutory Authority: Authorized by the Video Gaming Act [230 ILCS 40], specifically Section 78 (a) (3) of that Act [230 ILCS 40/78 (a) (3)]
- 5) A Complete Description of the Subjects and Issues Involved: The present rulemaking contains the following provisions:

New definition of "place of worship under the Religious Corporation Act": Section 25(h) of the Video Gaming Act [230 ILCS 40/25(h)] requires licensed locations to be located at least 100 feet away from "a place of worship under the Religious Corporation Act [805 ILCS 110]". Many religious entities in Illinois, however, are not incorporated under the Religious Corporation Act, instead, either incorporating under the General Not for Profit Corporation Act of 1986 [805 ILCS 105], or retaining an unincorporated status.

A logical reading of the underlying statute implies that enforcement of the 100-foot limitation for places of worship should not depend on the particular method of incorporation (or non-incorporation) of the religious entity with which the place of worship is affiliated. What is clearly significant is the nearby presence of the place of worship, not its method of incorporation. Accordingly, the proposed rulemaking adds a new definition of the term "place of worship under the Religious Corporation Act". (Amendment to Section 1800.110, "Definitions"). Under this definition, the place of worship must *qualify* for incorporation under the Religious Corporation Act but need not be actually incorporated under that Act.

Additionally, the new definition provides that to qualify as a "place of worship", a structure must be primarily used for religious and other related purposes. A structure

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whose primary use is non-religious (for example, a residence or retail establishment) will not qualify as a "place of worship" simply because religious activities are occasionally conducted there.

Service, repair, and maintenance of video gaming terminals (VGTs) shall be performed only by licensed technicians and licensed terminal handlers: The duties of licensed technicians and licensed terminal handlers with respect to the service, repair, and maintenance of VGTs are currently set forth in Section 1800.260. Nowhere in the video gaming rules is there an explicit requirement, however, that *only* licensed technicians and licensed terminal handlers shall perform service, repair and maintenance functions after the VGTs have been placed at licensed locations. The proposed rulemaking adds such a requirement by inserting new language into Section 1800.230 (Duties of Licensed Manufacturers), Section 1800.240 (Duties of Licensed Distributors), and Section 1800.250 (Duties of Licensed Video Terminal Operators). In each amended Section, the inserted language provides that a covered licensee "has an ongoing duty to...service, maintain, or repair video gaming terminals at licensed video gaming locations only by licensed technicians and licensed terminal handlers."

Adoption of the new language will enhance security in connection with the service, maintenance and repair of VGTs because of the existing requirement in Section 1800.260(e) that each licensed terminal handler and licensed technician shall "carry and display identification issued by the Board when working on video gaming terminals and associated video gaming equipment."

Replacement fee for identification badges: The rulemaking amends Section 1800.260 (Duties of Licensed Technicians and Licensed Terminal Handlers) to provide a \$10 replacement fee for lost badges issued by the Board to licensed terminal handlers and licensed technicians, and adds a requirement that licensed technicians and licensed terminal handlers shall return their identification to the Board upon resignation or termination of employment. The new provision is modeled after analogous language contained in Section 245(i) of the riverboat gambling rules (86 Ill. Admin. Code 3000.245(i)).

The Board has discretion to reject applications on the basis that the applicant or certain persons affiliated with the applicant have enrolled in the Self-Exclusion Program for problem gamblers: The rulemaking amends Section 1800.420 (Qualifications for Licensure) by adding a new subsection (d) providing that the Board shall have discretion to deny a license application on the basis that one of the following persons has placed

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himself or herself on the Self-Exclusion List:

- The applicant;
- A person with significant influence or control over the applicant;
- A person with ownership interest in the applicant of 5% or more; or
- A person involved in the operation or management of the applicant's business related to video gaming.

An applicant may not reapply for a license for a one-year period following denial: The rulemaking amends Section 1800.560 (Issuance of License) to prohibit an applicant who has been denied a license from reapplying for one year following the date of denial, unless granted leave to reapply by the Board.

Changes of ownership in licensed location: The rulemaking adds a new Section 1800.590 (Death and Change of Ownership of Video Gaming Licensee), pertaining to changes of ownership of licensed locations. Subsection (a) provides that licenses issued by the Board are not alienable or transferable, nor are they subject to attachment. It further provides that location licenses do not descend by the laws of testate or intestate devolution. This subsection specifically provides the circumstances under which a licensed location can continue to operate when an owner of the location dies.

Subsection (b) establishes detailed requirements pertaining to changes of ownership in locations and the ability of a new owner to operate video gaming terminals (VGTs) in an already licensed location. Specifically, the subsection provides for notice to the Board when changes in ownership occur and the steps that a licensed location must take in order to continue to operate VGTs.

- 6) Published studies and reports, and underlying sources of 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

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this notice in the *Illinois Register* to:
- Emily Mattison
Acting General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601
- 312/814-4700
Fax No. 312/814-7253
emily.mattison@igb.illinois.gov
- 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: The proposed rulemaking will impose no additional requirements.
- 14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was summarized in the January 2013 regulatory agenda except for the proposed amendment to 11 Ill. Admin. Code 1800.590, which has not been summarized in a regulatory agenda.

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

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TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

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1800.110	Definitions
1800.115	Gender
1800.120	Inspection

SUBPART B: DUTIES OF LICENSEES

Section	
1800.210	General Duties of All Video Gaming Licensees
1800.220	Continuing Duty to Report Violations
1800.230	Duties of Licensed Manufacturers
1800.240	Duties of Licensed Distributors
1800.250	Duties of Licensed Video Terminal Operators
1800.260	Duties of Licensed Technicians and Licensed Terminal Handlers
1800.270	Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section	
1800.310	Grounds for Disciplinary Actions
1800.320	Minimum Standards for Use Agreements
1800.330	Economic Disassociation

SUBPART D: LICENSING QUALIFICATIONS

Section	
1800.410	Coverage of Subpart
1800.420	Qualifications for Licensure
1800.430	Persons with Significant Influence or Control

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SUBPART E: LICENSING PROCEDURES

Section

1800.510	Coverage of Subpart
1800.520	Applications
1800.530	Submission of Application
1800.540	Application Fees
1800.550	Consideration of Applications by the Board
1800.555	Withdrawal of Applications
1800.560	Issuance of License
1800.570	Renewal of License
1800.580	Renewal Fees and Dates
1800.590	Death and Change of Ownership of Video Gaming Licensee

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section

1800.610	Coverage of Subpart
1800.615	Requests for Hearing
1800.620	Appearances
1800.625	Appointment of Administrative Law Judge
1800.630	Discovery
1800.635	Subpoenas
1800.640	Motions for Summary Judgment
1800.650	Proceedings
1800.660	Evidence
1800.670	Prohibition on Ex Parte Communication
1800.680	Sanctions and Penalties
1800.690	Transmittal of Record and Recommendation to the Board
1800.695	Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section

1800.710	Coverage of Subpart
1800.715	Notice of Proposed Disciplinary Action Against Licensees
1800.720	Hearings in Disciplinary Actions
1800.725	Appearances
1800.730	Appointment of Administrative Law Judge

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1800.735	Discovery
1800.740	Subpoenas
1800.745	Motions for Summary Judgment
1800.750	Proceedings
1800.760	Evidence
1800.770	Prohibition on Ex Parte Communication
1800.780	Sanctions and Penalties
1800.790	Transmittal of Record and Recommendation to the Board

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN
LICENSED VIDEO GAMING LOCATIONS

Section

1800.810	Location and Placement of Video Gaming Terminals
1800.820	Measurement of Distances from Locations
1800.830	Waivers of Location Restrictions

SUBPART I: SECURITY INTERESTS

Section

1800.910	Approvals Required, Applicability, Scope of Approval
1800.920	Notice of Enforcement of a Security Interest
1800.930	Prior Registration

SUBPART J: TRANSPORTATION, REGISTRATION,
AND DISTRIBUTION OF VIDEO GAMING TERMINALS

Section

1800.1010	Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
1800.1020	Transportation of Video Gaming Terminals into the State
1800.1030	Receipt of Video Gaming Terminals in the State
1800.1040	Transportation of Video Gaming Terminals Between Locations in the State
1800.1050	Approval to Transport Video Gaming Terminals Outside of the State
1800.1060	Placement of Video Gaming Terminals
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1800.1070	Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

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Section
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SUBPART L: FINGERPRINTING OF APPLICANTS

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1800.1210 Definitions
1800.1220 Entities Authorized to Perform Fingerprinting
1800.1230 Qualification as a Livescan Vendor
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SUBPART M: PUBLIC ACCESS TO INFORMATION

Section
1800.1310 Public Requests for Information

SUBPART N: PAYOUT DEVICES AND REQUIREMENTS

Section
1800.1410 Ticket Payout Devices

AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency expired December 2, 2012; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. 15112, effective October 1, 2012; amended at 36 Ill. Reg. 17033, effective November 21, 2012; amended at 36 Ill. Reg.

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18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 1800.110 Definitions

For purposes of this Part the following terms shall have the following meanings:

"Act": The Video Gaming Act [230 ILCS 40].

"Administrator": The chief executive officer responsible for day-to-day operations of the Illinois Gaming Board.

"Affiliate": An "affiliate of", or person "affiliated with", a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person.

"Affiliated entity": An "affiliated entity" of a person is any business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person.

"Applicant": A person applying for any license under the Video Gaming Act.

"Application": All material submitted, including the instructions, definitions, forms and other documents issued by the Illinois Gaming Board, comprising the video gaming license application submitted to the Illinois Gaming Board.

"Associated video gaming equipment": Ticket payout systems and validation procedures; wireless, promotional and bonusing systems; kiosks; gaming-related peripherals; hardware, software and systems; and other gaming devices and equipment for compliance with:

Illinois laws, regulations, and requirements as codified or otherwise set forth; and

Board-approved video gaming industry standards.

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"Attributed interest": A direct or indirect interest in an enterprise deemed to be held by an individual not through the individual's actual holdings but either through the holdings of the individual's relatives or through a third party or parties on behalf of the individual pursuant to a plan, arrangement, agreement or contract.

"Board": The Illinois Gaming Board.

"Business entity" or "Business": A partnership, incorporated or unincorporated association or group, firm, corporation, limited liability company, partnership for shares, trust, sole proprietorship or other business enterprise.

"Chi-square test": A statistical test used to determine if a relationship between variables exists by comparing expected and observed cell frequencies. Specifically, a chi-square test examines the observed frequencies in a category and compares them to what would be expected by chance or would be expected if there was no relationship between variables.

"Control": The possession, direct or indirect, of power to direct or cause the direction of the management and policies of an applicant or licensee through the ownership of voting securities, by contract or otherwise.

"Convenience store": A retail store that is open long hours and sells motor fuel and a limited selection of snacks and general goods.

"Credit": One, five, 10 or 25 cents.

"Distributor": An individual, partnership, corporation or limited liability company licensed under the Act to buy, sell, lease or distribute video gaming terminals or major components or parts of video gaming terminals to or from terminal operators.

"Enforce a security interest": To transfer possession of ownership or title pursuant to a security interest.

"EPROM": An acronym for Erasable, Programmable, Read Only Memory, which is a microprocessor component that stores memory and affects payout percentage and/or contains a random number generator that selects the outcome of a game on a video gaming terminal.

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"Facility-pay" or "facility payment" means a manual payment of currency by an authorized employee of a licensed video gaming location or an authorized employee of a terminal operator for amounts owed to a patron by a video gaming terminal when a video gaming terminal or ticket payout device has malfunctioned and is unable to produce or redeem a ticket.

"Fraternal organization": An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under section 501(c)(8) or (c)(10) of the Internal Revenue Code.

"Game": A gambling activity that is played for money, property or anything of value, including without limitation those played with cards, chips, tokens, vouchers, dice, implements, or electronic, electrical or mechanical devices or machines.

"Gaming": The dealing, operating, carrying on, conducting, maintaining or exposing for play of any game.

"Gaming operation": The conducting of gaming or the providing or servicing of gaming equipment.

"Gaming property collateral": Video gaming equipment subject to a security interest.

"Illinois resident":

With respect to an individual, an individual who is either:

domiciled in Illinois or maintains a bona fide place of abode in Illinois; or

is required to file an Illinois tax return during the taxable year.

With respect to a corporation, any corporation organized under the laws of this State and any foreign corporation with a certificate of authority to transact business in Illinois. A foreign corporation not authorized to transact business in this State is a nonresident of this State.

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With respect to a partnership, a partnership in which any partner is an Illinois resident, or where the partnership has an office and is doing business in Illinois.

With respect to an irrevocable trust, a trust where the grantor was an Illinois resident individual at the time the trust became irrevocable.

"Institutional investor":

A retirement fund administered by a public agency for the exclusive benefit of federal, state or local public employees;

An investment company registered under section 8 of the Investment Company Act of 1940 (15 USC 80a-8);

A collective investment trust organized by a bank under Part 9 of the Rules of the Comptroller of the Currency (12 CFR 9.18);

A closed end investment trust registered with the United States Securities and Exchange Commission;

A chartered or licensed life insurance company or property and casualty insurance company;

A federal or state bank;

An investment advisor registered under the Investment Advisors Act of 1940 (15 USC 80b-1 through 80b-21); or

Such other person as the Illinois Gaming Board may determine for reasons consistent with the Act and this Part.

"License": Authorization granted by the Board permitting a licensee to engage in the defined activities of video gaming.

"Licensed establishment": Any retail establishment licensed under the Act where alcoholic liquor is drawn, poured, mixed, or otherwise served for consumption on the premises. Licensed establishment does not include a facility operated by an organization licensee, an intertrack wagering licensee, or an intertrack wagering

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location licensee licensed under the Illinois Horse Racing Act of 1975 or a riverboat licensed under the Riverboat Gambling Act.

"Licensed fraternal establishment": The location licensed under the Act where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

"Licensed technician": An individual who is licensed under the Act to repair, service and maintain video gaming terminals.

"Licensed terminal handler": A person, including but not limited to an employee or independent contractor working for a manufacturer, distributor, supplier, technician or terminal operator, who is licensed under the Act to possess or control a video gaming terminal or to have access to the inner workings of a video gaming terminal. A licensed terminal handler does not include an individual, partnership, corporation or limited liability company defined as a manufacturer, distributor, supplier, technician or terminal operator under Section 5 of the Video Gaming Act.

"Licensed truck stop establishment": A facility licensed under the Act that is at least a 3-acre facility with a convenience store, that has separate diesel islands for fueling commercial motor vehicles, that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and that has parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code [625 ILCS 5/18b-101]. The 10,000 gallon requirement may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.

"Licensed veterans establishment": The location licensed under the Act where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

"Licensed video gaming location": A licensed establishment, licensed fraternal establishment, licensed veterans establishment, or licensed truck stop establishment, all as defined in Section 5 of the Video Gaming Act and this Part.

"Liquor license": A license issued by a governmental body authorizing the holder to sell and offer for sale at retail alcoholic liquor for use or consumption.

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"Major components or parts": Components or parts that comprise the inner workings and peripherals of a video gaming terminal, including but not limited to the device's hardware, software, human interface devices, interface ports, power supply, ticket payout system, bill validator, printer and any component that affects or could affect the result of a game played on the device.

"Manufacturer": An individual, partnership, corporation or limited liability company that is licensed under the Act and that manufactures or assembles video gaming terminals.

"Net terminal income": Money put into a video gaming terminal minus credits paid out to players.

"Nominee": Any individual or business entity that holds as owner of record the legal title to tangible or intangible personal or real property, including without limitation any stock, bond, debenture, note, investment contract or real estate on behalf of another individual or business entity, and as such is designated and authorized to act on his, her or its behalf with respect to the property.

"Ownership interest": Includes, but is not limited to, direct, indirect, beneficial or attributed interest, or holder of stock options, convertible debt, warrants or stock appreciation rights, or holder of any beneficial ownership or leasehold interest in a business entity.

"Payout device": A device, approved by the Board and provided by a supplier or distributor, that redeems for cash tickets dispensed by a video gaming terminal in exchange for credits accumulated on a video gaming terminal.

"Person": Includes both individuals and business entities.

"Person with significant interest or control": Any of the following:

Each person in whose name the liquor license is maintained for each licensed video gaming location;

Each person who, in the opinion of the Administrator, has the ability to influence or control the activities of the applicant or licensee, or elect a majority of its board of directors, other than a bank or licensed lending

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institution that holds a mortgage or other lien, or any other source of funds, acquired in the ordinary course of business;

Persons having the power to exercise significant influence or control over decisions concerning any part of the applicant's or licensee's video gaming operation.

"Place of worship under the Religious Corporation Act": A structure belonging to, or operated by, a church, congregation or society formed for the purpose of religious worship and eligible for incorporation under the Religious Corporation Act [805 ILCS 110], provided that the structure is used primarily for purposes of religious worship and related activities.

"Redemption period": The one-year period, starting on the date of issuance, during which a ticket dispensed by a video gaming terminal may be redeemed for cash.

"Secured party": A person who is a lender, seller or other person who holds a valid security interest.

"Security": An ownership right or creditor relationship.

"Security agreement": An agreement that creates or provides a security interest, including but not limited to a use agreement.

"Security interest": An interest in property that secures the payment or performance of an obligation or judgment.

"Sole proprietor": An individual who in his or her own name owns 100% of the assets and who is solely liable for the debts of a business.

"Substantial interest": With respect to a partnership, a corporation, an organization, an association, a business or a limited liability company means:

When, with respect to a sole proprietorship, an individual or his or her spouse owns, operates, manages, or conducts, directly or indirectly, the organization, association or business, or any part thereof; or

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When, with respect to a partnership, the individual or his or her spouse shares in any of the profits, or potential profits, of the partnership activities; or

When, with respect to a corporation, an individual or his or her spouse is an officer or director or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of any class of stock of the corporation; or

When, with respect to a limited liability company, an individual or his or her spouse is a member, or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of the membership interest of the limited liability company; or

When, with respect to any other organization not covered in the preceding four paragraphs, an individual or his or her spouse is an officer or manages the business affairs, or the individual or his or her spouse is the owner of, or otherwise controls, 10% or more of the assets of the organization; or

When an individual or his or her spouse furnishes 5% or more of the capital, whether in cash, goods or services, for the operation of any business, association or organization during any calendar year.

For purposes of this definition, "individual" includes all individuals or their spouses whose combined interest would qualify as a substantial interest under this definition and whose activities with respect to an organization, association, or business are so closely aligned or coordinated as to constitute the activities of a single entity.

"Supplier": An individual, partnership, corporation or limited liability company that is licensed under the Act to supply major components or parts to video gaming terminals to licensed terminal operators.

"Terminal operator": An individual, partnership, corporation or limited liability company that is licensed under the Act that owns, services, and maintains video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed fraternal establishments or licensed veterans establishments.

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"Use agreement": A contractual agreement between a licensed terminal operator and a licensed video gaming location establishing terms and conditions for placement and operation of video gaming terminals by the licensed terminal operator within the premises of the licensed video gaming location.

"Veterans organization": An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under section 501(c)(19) of the Internal Revenue Code (26 USC 501(c)(19)).

"Video gaming equipment": Video gaming terminals, associated video gaming equipment and major components or parts.

"Video gaming operation": As the context requires, the conducting of video gaming and all related activities.

"Video gaming terminal": Any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up and blackjack, as authorized by the Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: DUTIES OF LICENSEES

Section 1800.230 Duties of Licensed Manufacturers

In addition to all other duties and obligations required by the Video Gaming Act and this Part, each licensed manufacturer has an ongoing duty to comply with the following:

- a) Manufacture video gaming terminals and associated video gaming equipment for placement in the State in accordance with the specifications and procedures set forth in the Act, this Part and the technical standards adopted by the Board;
- b) Make available the odds of winning for each video gaming terminal on the terminal's video monitor, accessible from a clear and conspicuous help button or

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touch screen icon. The odds of winning, the manner in which they are calculated, and the allowable payout percentages shall be in accordance with the Act and the technical standards adopted by the Board;

- c) Maintain and provide inventory of associated video gaming equipment for certified video gaming terminals sold by the manufacturer for use in Illinois to ensure the timely repair and continued, approved operation and play of those video gaming terminals;
- d) Provide technical assistance and training in accordance with the Act and this Part;
- e) Comply with the provisions of the Gaming Device Act of 1962 (15 USC 1173);
- f) Obtain all approvals and certifications required by the Video Gaming Act and this Part or as required by the Board; ~~and~~
- g) Not own, manage or control a licensed establishment, licensed truck stop establishment, licensed fraternal establishment or licensed veterans establishment; ~~and-~~
- h) [Service, maintain or repair video gaming terminals at licensed video gaming locations only by licensed technicians or licensed terminal handlers.](#)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 1800.240 Duties of Licensed Distributors

In addition to all other duties and obligations required by the Act and this Part, each licensed distributor has an ongoing duty to comply with the following:

- a) Buy, sell, distribute, lease or market in Illinois only video gaming terminals that have been tested and certified for use in Illinois;
- b) Provide technical assistance and training in accordance with the Act and this Part; ~~and~~
- c) Not own, manage or control a licensed establishment, licensed truck stop establishment, licensed fraternal establishment or licensed veterans establishment; ~~and-~~

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- d) [Service, maintain or repair video gaming terminals at licensed video gaming locations only by licensed technicians or licensed terminal handlers.](#)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 1800.250 Duties of Licensed Video Terminal Operators

In addition to all other duties and obligations required by the Act and this Part, each licensed terminal operator has an ongoing duty to comply with the following:

- a) Assume the primary responsibility for the operation and maintenance of video gaming terminals and for payment of tax remittance to the State as required by the Act;
- b) Maintain and provide, either directly or through a licensed manufacturer, distributor, supplier, licensed technician, or licensed terminal handler, an inventory of associated video gaming equipment to ensure the timely repair and continued, approved operation and play of the video gaming terminals it operates;
- c) Ensure the timely repair and continued, approved operation and play of the video gaming terminals it operates;
- d) Assume responsibility for the payment of valid receipt tickets issued by video gaming terminals it operates;
- e) Maintain at all times an approved method of payout for valid receipt tickets and pay all valid receipt tickets;
- f) Assume responsibility for terminal and associated video gaming equipment malfunctions, including any claim for the payment of credits arising from malfunctions;
- g) Promptly notify the Board of electronic or mechanical malfunctions or problems experienced in a terminal that affect the integrity of terminal play;
- h) Extend no form of deferred payment for video gaming terminal play in which an individual receives something of value now and agrees to repay the lender in the future for the purpose of wagering at a video gaming terminal;

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- i) Maintain a single bank account for all licensed video gaming locations with which it contracts for deposit of aggregate revenues generated from the play of video gaming terminals and allow for electronic fund transfers for tax payments;
- j) Enter into written use agreements with licensed video gaming locations that comply with the Act and this Part;
- k) Obtain and install, at no cost to the State and as required by the Board, all hardware, software and related accessories necessary to connect video gaming terminals to a central communications system;
- l) Offer or provide nothing of value to any licensed video gaming location or any agent or representative of any licensed video gaming location as an incentive or inducement to locate, keep or maintain video gaming terminals at the licensed video gaming location;
- m) Not own, manage or control a licensed establishment, licensed truck stop establishment, licensed fraternal establishment or licensed veterans establishment;
- n) Conduct advertising and promotional activities in accordance with this Part and in a manner that does not reflect adversely on or that would discredit or tend to discredit the Illinois gaming industry or the State of Illinois;
- o) Respond to service calls within a reasonable time from the time of notification by the video gaming location;
- p) Immediately remove all video gaming terminals from the restricted area of play:
 - 1) upon order of the Board or an agent of the Board, or
 - 2) that have been out of service or otherwise inoperable for more than 72 hours;
- q) Provide the Board with a current list of video gaming terminals acquired for use in Illinois;
- r) Not install, remove or relocate any video gaming terminal without prior notification and approval of the Administrator or his designee; ~~and~~

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- s) Maintain a video gaming terminal access log for each video gaming terminal, which must be kept inside the video gaming terminal at all times, documenting all access to the video gaming terminal. The log format shall provide for the time and date of access, the persons who had access, the license number when applicable and the nature of the service or repair made during the access; ~~and-~~
- t) Service, maintain or repair video gaming terminals at licensed video gaming locations only by licensed technicians or licensed terminal handlers.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 1800.260 Duties of Licensed Technicians and Licensed Terminal Handlers

In addition to all other duties and obligations required by the Act and this Part, each licensed technician and licensed terminal handler has an ongoing duty to comply with the following:

- a) Promptly notify the Board of electronic or mechanical malfunctions or problems experienced in a terminal that affect the integrity of terminal play;
- b) Promptly notify the Board of any unauthorized or illegal video gaming location or any video gaming terminal that is in violation of Section 35 of the Video Gaming Act;
- c) Ensure that every video gaming terminal is licensed by the Board before any service, maintenance or repair is performed;
- d) Comply with all specifications and technical requirements issued by the Board;
- e) Carry and display identification issued by the Board when working on video gaming terminals and associated video gaming equipment; ~~and~~
- f) For each video gaming terminal accessed by a licensed terminal handler, record in each video gaming terminal access log the time and date of access, the person, and his or her license number, who had access, and the nature of the service or repair made during the access;-
- g) Pay a fee of \$10 to the board for any necessary replacement of identification; and

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h) [Return identification to the Board upon resignation or termination of employment.](#)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART D: LICENSING QUALIFICATIONS

Section 1800.420 Qualifications for Licensure

- a) In addition to the qualifications required in the Act, the Board may not grant any video gaming license until the Board is satisfied that the applicant is:
- 1) A person of good character, honesty and integrity;
 - 2) A person whose background, including criminal record, reputation and associations, is not injurious to the public health, safety, morals, good order and general welfare of the people of the State of Illinois;
 - 3) A person whose background, including criminal record, reputation and associations, does not discredit or tend to discredit the Illinois gaming industry or the State of Illinois;
 - 4) A person whose background, including criminal record, reputation, habits, social or business associations does not adversely affect public confidence and trust in gaming or pose a threat to the public interests of the State or to the security and integrity of video gaming;
 - 5) A person who does not create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of video gaming;
 - 6) A person who does not present questionable business practices and financial arrangements incidental to the conduct of video gaming activities or otherwise;
 - 7) A person who, either individually or through employees, demonstrates business ability and experience to establish, operate and maintain a business for the type of license for which application is made;
 - 8) A person who does not associate with, either socially or in business affairs, or employ persons of notorious or unsavory reputation or who

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have extensive police records, or who have failed to cooperate with any officially constituted investigatory or administrative body; and

- 9) A person who has not had a gaming license revoked in any other jurisdiction.
- b) In addition to all other qualifications required in the Act and this Part, the Board may not grant a video terminal operator license until the Board is satisfied that the applicant:
- 1) Is a person who demonstrates adequate financing for the business proposed. The Board shall consider whether any financing is from a source that meets the qualifications in subsections (a)(1) through (9) of this Section and is in an amount sufficient to ensure the likelihood of success in the performance of the licensee's duties and responsibilities pursuant to the Act and this Part; and
 - 2) Has disclosed all persons with significant influence or control over the applicant or licensee.
- c) Past Participation in Video Gaming
- 1) The Board shall not grant a license to a person who has facilitated, enabled or participated in the use of coin-operated amusement devices for gambling purposes on or after December 16, 2009, or who is under the significant influence or control of such a person.
 - 2) The Board has discretion not to grant a license to a person who, before December 16, 2009, has facilitated, enabled or participated in the use of coin-operated amusement devices for gambling purposes, or who is under the significant influence or control of such a person.
- d) The Board shall have discretion to deny a license application on the basis that one of the following persons has placed himself or herself on the Self-Exclusion List established by 86 Ill. Adm. Code 3000.750:
- 1) The applicant;
 - 2) A person with significant influence or control over the applicant;

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- 3) A person with an ownership interest in the applicant of 5% or more; or
- 4) A person involved in the operation or management of the applicant's business related to video gaming.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART E: LICENSING PROCEDURES

Section 1800.560 Issuance of License

- a) The Board may only issue a license after the background investigation is complete, the Board determines the applicant is suitable for licensure and the applicant has paid the required application fee.
- b) If an applicant is denied a license, the applicant may not reapply for a license within one year from the date on which the final order of denial was voted upon by the Board, without leave of the Board.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 1800.590 Death and Change of Ownership of Video Gaming Licensee

- a) Licenses granted by the Board do not constitute property, shall not be subject to attachment, and shall not be alienable or transferable. Licenses granted by the Board shall not descend by the laws of testate or intestate devolution, but shall cease upon the death of the licensee, provided that executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, may continue the video gaming location operation under order of the appropriate court and the approval of the Administrator of the Illinois Gaming Board, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death or the decent, or the insolvency or bankruptcy until the expiration of the license, but no longer than six months after the death, bankruptcy or insolvency of the licensee. Approval of the Administrator to continue the video gaming location operation may only be granted following the approval of a designated video gaming manager for the video gaming location.
- b) Change of Ownership of Licensed Video Gaming Location

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- 1) In addition to the disclosure requirements set forth in Section 1800.210(c) and (i), each video gaming location licensee shall notify the Board in writing prior to a proposed sale or transfer of a licensed video gaming location.
- 2) When a licensed video gaming location is sold or transferred, the video gaming terminals may be allowed to continue to operate under the old license if:
 - A) the new owner has submitted all required and applicable application materials for a new or amended video gaming location license application, and included copies of all sale or transfer documentation;
 - B) the new owner has completed the required criminal record check via fingerprint examination;
 - C) the new owner is issued all required liquor licenses to draw, pour, mix or otherwise serve alcohol for consumption on the premises; and
 - D) the selling or transferring license holder agrees to be bound to all obligations and duties imposed upon it for operating a licensed video gaming location by the Video Gaming Act and this Part until the Board approves the sale or transfer and until the consummation of the closing of the sale or transfer.
- 3) When a licensed video gaming location is sold or transferred, the video gaming terminals may be allowed to continue to operate under the old license only until:
 - A) The issuance of a video gaming location license in the name of the new owner;
 - B) A determination by the Board that the new applicant, new owner and/or new person with significant interest or control is unsuitable; or

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C) [Denial of the new license application.](#)

(Source: Added at 37 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Water Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 302
- 3) Section Number: 302.208 Proposed Action: Amend
- 4) Statutory Authority: Implementing Sections 22.12 and 57 - 57.19 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/22.12, 27, 28, and 57 - 57.19.]
- 5) A Complete Description of the Subjects and Issues Involved: This subdocket proposes technical corrections to recently-adopted amendments to 35 Ill. Adm. Code 302.208, published in the *Illinois Register* at 36 Ill. Reg. 18871 (Dec. 28, 2012). *See* In the Matter of: Triennial Review of Water Quality Standards for Boron, Fluoride and Manganese: Amendments to 35 Ill. Adm. Code 301.106, 302.Subparts B, C, E, F and 303, R11-18 (Nov. 15, 2012). The unintended errors appear to have occurred between the first notice and final rule adoption publications.

A more detailed description of this rulemaking is contained in the Board's first notice opinion and order in this Technical Corrections to Triennial Review of Water Quality Standards Amendments for Fluoride and Manganese: Amendments to 35 Ill. Adm. Code 302.208(b) and (e), R11-18(B) (Feb. 7, 2012). In summary, this subdocket is opened for the limited purpose of making two changes to Section 302.208 (b) and (e), to correct scriveners' errors that occurred during the rulemaking process. The errors occur in the reporting requirements for the water quality standards fluoride (errant appearance of the word "metals" which should have been stricken throughout the section) and manganese (omission of the word "dissolved"). The Board believes that failure to promptly propose corrections to the standards could result in unintended problems for dischargers in monitoring, reporting, and demonstrating compliance with rules that are arguably ambiguous.

The Board has already held the hearings required under Section 27 of the Environmental Protection Act [5 ILCS 5/100 et al. seq.]. The sole purpose of this subdocket B is to have the adopted amendments comport with the rulemaking record on which they are based. The Board does not believe that additional hearings are necessary and, accordingly, does not intend to hold additional hearings, unless they are specifically requested during the first notice comment period as provided by the Administrative Procedure Act (IAPA) [5 ILCS 100/1-1].

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- 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 proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rule does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2010)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may download copies of the Board's opinion and order in R11-18(b) from the Board's Web site at www.ipcb.state.il.us and may also request copies by calling the Clerk's office at 312-814-3620.

The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should refer to Docket R11-18B(b) and be addressed to:

Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small businesses, small municipalities and not for profit corporations that discharge wastewaters into "waters of the State" (usually under their National Pollutant Discharge and Elimination System (NPDES) permits).

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- B) Reporting, bookkeeping or other procedures required for compliance: Those needed to comply with current permit requirements.
- C) Types of Professional skills necessary for compliance: Wastewater treatment plant staff, possibly an environmental engineer.

14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 302
WATER QUALITY STANDARDS

SUBPART A: GENERAL WATER QUALITY PROVISIONS

Section	
302.100	Definitions
302.101	Scope and Applicability
302.102	Allowed Mixing, Mixing Zones and ZIDs
302.103	Stream Flows
302.104	Main River Temperatures
302.105	Antidegradation

SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section	
302.201	Scope and Applicability
302.202	Purpose
302.203	Offensive Conditions
302.204	pH
302.205	Phosphorus
302.206	Dissolved Oxygen
302.207	Radioactivity
302.208	Numeric Standards for Chemical Constituents
302.209	Fecal Coliform
302.210	Other Toxic Substances
302.211	Temperature
302.212	Total Ammonia Nitrogen
302.213	Effluent Modified Waters (Ammonia) (Repealed)

SUBPART C: PUBLIC AND FOOD PROCESSING WATER SUPPLY STANDARDS

Section	
302.301	Scope and Applicability
302.302	Algicide Permits

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302.303	Finished Water Standards
302.304	Chemical Constituents
302.305	Other Contaminants
302.306	Fecal Coliform
302.307	Radium 226 and 228

SUBPART D: SECONDARY CONTACT AND
INDIGENOUS AQUATIC LIFE STANDARDS

Section	
302.401	Scope and Applicability
302.402	Purpose
302.403	Unnatural Sludge
302.404	pH
302.405	Dissolved Oxygen
302.406	Fecal Coliform (Repealed)
302.407	Chemical Constituents
302.408	Temperature
302.409	Cyanide
302.410	Substances Toxic to Aquatic Life

SUBPART E: LAKE MICHIGAN BASIN WATER QUALITY STANDARDS

Section	
302.501	Scope, Applicability, and Definitions
302.502	Dissolved Oxygen
302.503	pH
302.504	Chemical Constituents
302.505	Fecal Coliform
302.506	Temperature
302.507	Thermal Standards for Existing Sources on January 1, 1971
302.508	Thermal Standards for Sources Under Construction But Not In Operation on January 1, 1971
302.509	Other Sources
302.510	Incorporations by Reference
302.515	Offensive Conditions
302.520	Regulation and Designation of Bioaccumulative Chemicals of Concern (BCCs)
302.521	Supplemental Antidegradation Provisions for Bioaccumulative Chemicals of Concern (BCCs)

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302.525	Radioactivity
302.530	Supplemental Mixing Provisions for Bioaccumulative Chemicals of Concern (BCCs)
302.535	Ammonia Nitrogen
302.540	Other Toxic Substances
302.545	Data Requirements
302.550	Analytical Testing
302.553	Determining the Lake Michigan Aquatic Toxicity Criteria or Values – General Procedures
302.555	Determining the Tier I Lake Michigan Acute Aquatic Toxicity Criterion (LMAATC): Independent of Water Chemistry
302.560	Determining the Tier I Lake Michigan Basin Acute Aquatic Life Toxicity Criterion (LMAATC): Dependent on Water Chemistry
302.563	Determining the Tier II Lake Michigan Basin Acute Aquatic Life Toxicity Value (LMAATV)
302.565	Determining the Lake Michigan Basin Chronic Aquatic Life Toxicity Criterion (LMCATC) or the Lake Michigan Basin Chronic Aquatic Life Toxicity Value (LMCATV)
302.570	Procedures for Deriving Bioaccumulation Factors for the Lake Michigan Basin
302.575	Procedures for Deriving Tier I Water Quality Criteria and Values in the Lake Michigan Basin to Protect Wildlife
302.580	Procedures for Deriving Water Quality Criteria and Values in the Lake Michigan Basin to Protect Human Health – General
302.585	Procedures for Determining the Lake Michigan Basin Human Health Threshold Criterion (LMHHTC) and the Lake Michigan Basin Human Health Threshold Value (LMHHTV)
302.590	Procedures for Determining the Lake Michigan Basin Human Health Nonthreshold Criterion (LMHHNC) or the Lake Michigan Basin Human Health Nonthreshold Value (LMHHNV)
302.595	Listing of Bioaccumulative Chemicals of Concern, Derived Criteria and Values

SUBPART F: PROCEDURES FOR DETERMINING WATER QUALITY CRITERIA

Section	
302.601	Scope and Applicability
302.603	Definitions
302.604	Mathematical Abbreviations
302.606	Data Requirements
302.612	Determining the Acute Aquatic Toxicity Criterion for an Individual Substance –

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	General Procedures
302.615	Determining the Acute Aquatic Toxicity Criterion – Toxicity Independent of Water Chemistry
302.618	Determining the Acute Aquatic Toxicity Criterion – Toxicity Dependent on Water Chemistry
302.621	Determining the Acute Aquatic Toxicity Criterion – Procedure for Combinations of Substances
302.627	Determining the Chronic Aquatic Toxicity Criterion for an Individual Substance – General Procedures
302.630	Determining the Chronic Aquatic Toxicity Criterion – Procedure for Combinations of Substances
302.633	The Wild and Domestic Animal Protection Criterion
302.642	The Human Threshold Criterion
302.645	Determining the Acceptable Daily Intake
302.648	Determining the Human Threshold Criterion
302.651	The Human Nonthreshold Criterion
302.654	Determining the Risk Associated Intake
302.657	Determining the Human Nonthreshold Criterion
302.658	Stream Flow for Application of Human Nonthreshold Criterion
302.660	Bioconcentration Factor
302.663	Determination of Bioconcentration Factor
302.666	Utilizing the Bioconcentration Factor
302.669	Listing of Derived Criteria
302.APPENDIX A	References to Previous Rules
302.APPENDIX B	Sources of Codified Sections
302.APPENDIX C	Maximum total ammonia nitrogen concentrations allowable for certain combinations of pH and temperature
302.TABLE A	pH-Dependent Values of the AS (Acute Standard)
302.TABLE B	Temperature and pH-Dependent Values of the CS (Chronic Standard) for Fish Early Life Stages Absent
302.TABLE C	Temperature and pH-Dependent Values of the CS (Chronic Standard) for Fish Early Life Stages Present
302.APPENDIX D	Section 302.206(d): Stream Segments for Enhanced Dissolved Oxygen Protection

AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b), and 27].

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SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 6 Ill. Reg. 13750, effective October 26, 1982; amended at 8 Ill. Reg. 1629, effective January 18, 1984; peremptory amendments at 10 Ill. Reg. 461, effective December 23, 1985; amended at R87-27 at 12 Ill. Reg. 9911, effective May 27, 1988; amended at R85-29 at 12 Ill. Reg. 12082, effective July 11, 1988; amended in R88-1 at 13 Ill. Reg. 5998, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2899, effective February 13, 1990; amended in R88-21(B) at 14 Ill. Reg. 11974, effective July 9, 1990; amended in R94-1(A) at 20 Ill. Reg. 7682, effective May 24, 1996; amended in R94-1(B) at 21 Ill. Reg. 370, effective December 23, 1996; expedited correction at 21 Ill. Reg. 6273, effective December 23, 1996; amended in R97-25 at 22 Ill. Reg. 1356, effective December 24, 1997; amended in R99-8 at 23 Ill. Reg. 11249, effective August 26, 1999; amended in R01-13 at 26 Ill. Reg. 3505, effective February 22, 2002; amended in R02-19 at 26 Ill. Reg. 16931, effective November 8, 2002; amended in R02-11 at 27 Ill. Reg. 166, effective December 20, 2002; amended in R04-21 at 30 Ill. Reg. 4919, effective March 1, 2006; amended in R04-25 at 32 Ill. Reg. 2254, effective January 28, 2008; amended in R07-9 at 32 Ill. Reg. 14978, effective September 8, 2008; amended in R11-18 at 36 Ill. Reg. 18871, effective December 12, 2012; amended in R11-18(b) at 37 Ill. Reg. _____, effective _____.

SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section 302.208 Numeric Standards for Chemical Constituents

- a) The acute standard (AS) for the chemical constituents listed in subsection (e) shall not be exceeded at any time except for those waters for which a zone of initial dilution (ZID) has been approved by the Agency pursuant to Section 302.102.
- b) The chronic standard (CS) for the chemical constituents listed in subsection (e) shall not be exceeded by the arithmetic average of at least four consecutive samples collected over any period of at least four days, except for those waters in which the Agency has approved a mixing zone or in which mixing is allowed pursuant to Section 302.102. The samples used to demonstrate attainment or lack of attainment with a CS must be collected in a manner that assures an average representative of the sampling period. For the chemical constituents that have water quality based standards dependent upon hardness, the chronic water quality standard will be calculated according to subsection (e) using the hardness of the water body at the time the sample was collected. To calculate attainment status of chronic **metals** standards, the concentration of the chemical constituent in each

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sample is divided by the calculated water quality standard for the sample to determine a quotient. The water quality standard is attained if the mean of the sample quotients is less than or equal to one for the duration of the averaging period.

- c) The human health standard (HHS) for the chemical constituents listed in subsection (f) shall not be exceeded when the stream flow is at or above the harmonic mean flow pursuant to Section 302.658 nor shall an annual average, based on at least eight samples, collected in a manner representative of the sampling period, exceed the HHS except for those waters in which the Agency has approved a mixing zone or in which mixing is allowed pursuant to Section 302.102.
- d) The standard for the chemical constituents of subsections (g) and (h) shall not be exceeded at any time except for those waters in which the Agency has approved a mixing zone or in which mixing is allowed pursuant to Section 302.102.
- e) Numeric Water Quality Standards for the Protection of Aquatic Organisms

Constituent	AS ($\mu\text{g/L}$)	CS ($\mu\text{g/L}$)
Arsenic (trivalent, dissolved)	$360 \times 1.0^* = 360$	$190 \times 1.0^* = 190$
Boron (total)	40,100	7,600
Cadmium (dissolved)	$e^{A+B \ln(H)} \times$ $\left\{ 1.138672 - \right.$ $\left. \left[\frac{1.138672 - 1.101672}{[(\ln(H))(0.041838)]} \right] \right\}^*$	$e^{A+B \ln(H)} \times$ $\left\{ 1.101672 - \right.$ $\left. \left[\frac{1.101672 - 1.078672}{[(\ln(H))(0.041838)]} \right] \right\}^*$
	where $A = -2.918$ and $B = 1.128$	where $A = -3.490$ and $B = 0.7852$
Chromium (hexavalent, total)	16	11

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Chromium (trivalent, dissolved)	$e^{A+B\ln(H)} \times 0.316 *$ where $A = 3.688$ and $B = 0.8190$	$e^{A+B\ln(H)} \times 0.860 *$ where $A = 1.561$ and $B = 0.8190$
Copper (dissolved)	$e^{A+B\ln(H)} \times 0.960 *$ where $A = -1.464$ and $B = 0.9422$	$e^{A+B\ln(H)} \times 0.960 *$ where $A = -1.465$ and $B = 0.8545$
Cyanide**	22	5.2
Fluoride (total)	$e^{A+B\ln(H)}$ where $A = 6.7319$ and $B = 0.5394$	$e^{A+B\ln(H)}$, but shall not exceed 4.0 mg/L where $A = 6.0445$ and $B = 0.5394$
Lead (dissolved)	$e^{A+B\ln(H)} \times$ $\left\{ 1.46203 - \frac{1}{[(\ln H)(0.1457/2)]} \right\} *$ where $A = -1.301$ and $B = 1.273$	$e^{A+B\ln(H)} \times$ $\left\{ 1.46203 - \frac{1}{[(\ln H)(0.145712)]} \right\} *$ where $A = -2.863$ and $B = 1.273$
Manganese (dissolved)	$e^{A+B\ln(H)} \times 0.9812 *$ where $A = 4.9187$ and $B = 0.7467$	$e^{A+B\ln(H)} \times 0.9812 *$ where $A = 4.0635$ and $B = 0.7467$
Mercury (dissolved)	$2.6 \times 0.85* = 2.2$	$1.3 \times 0.85* = 1.1$
Nickel (dissolved)	$e^{A+B\ln(H)} \times 0.998 *$	$e^{A+B\ln(H)} \times 0.997 *$

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	where $A = 0.5173$ and $B = 0.8460$	where $A = -2.286$ and $B = 0.8460$
TRC	19	11
Zinc (dissolved)	$e^{A+B \ln(H)} \times 0.978 *$	$e^{A+B \ln(H)} \times 0.986 *$
	where $A = 0.9035$ and $B = 0.8473$	where $A = -0.4456$ and $B = 0.8473$
Benzene	4200	860
Ethylbenzene	150	14
Toluene	2000	600
Xylene(s)	920	360

where:

- $\mu\text{g/L}$ = microgram per liter
- e^x = base of natural logarithms raised to the x-power
- $\ln(H)$ = natural logarithm of Hardness
- *
- ** = conversion factor multiplier for dissolved metals
- ** = standard to be evaluated using either of the following USEPA approved methods, incorporated by reference at 35 Ill. Adm. Code 301.106:
Method OIA-1677, DW: Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry, January 2004, Document Number EPA-821-R-04-001 or Cyanide Amenable to Chlorination, Standard Methods 4500-CN-G (40 CFR 136.3)

f) Numeric Water Quality Standard for the Protection of Human Health

Constituent	($\mu\text{g/L}$)
Mercury (total)	0.012

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Benzene 310

where:

$\mu\text{g/L}$ = micrograms per liter

g) Single-value standards apply at the following concentrations for these substances:

Constituent	Unit		Standard
Barium (total)	mg/L		5.0
Chloride (total)	mg/L		500
Iron (dissolved)	mg/L	01046	1.0
Phenols	mg/L		0.1
Selenium (total)	mg/L		1.0
Silver (total)	$\mu\text{g/L}$		5.0

where:

mg/L = milligram per liter and

$\mu\text{g/L}$ = microgram per liter

h) Water quality standards for sulfate are as follows:

- 1) At any point where water is withdrawn or accessed for purposes of livestock watering, the average of sulfate concentrations must not exceed 2,000 mg/L when measured at a representative frequency over a 30 day period.
- 2) The results of the following equations provide sulfate water quality standards in mg/L for the specified ranges of hardness (in mg/L as CaCO_3) and chloride (in mg/L) and must be met at all times:
 - A) If the hardness concentration of receiving waters is greater than or equal to 100 mg/L but less than or equal to 500 mg/L, and if the

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chloride concentration of waters is greater than or equal to 25 mg/L but less than or equal to 500 mg/L, then:

$$C = [1276.7 + 5.508 (\text{hardness}) - 1.457 (\text{chloride})] * 0.65$$

where:

C = sulfate concentration

- B) If the hardness concentration of waters is greater than or equal to 100 mg/L but less than or equal to 500 mg/L, and if the chloride concentration of waters is greater than or equal to 5 mg/L but less than 25 mg/L, then:

$$C = [-57.478 + 5.79 (\text{hardness}) + 54.163 (\text{chloride})] * 0.65$$

where:

C = sulfate concentration

- 3) The following sulfate standards must be met at all times when hardness (in mg/L as CaCO₃) and chloride (in mg/L) concentrations other than specified in (h)(2) are present:
- A) If the hardness concentration of waters is less than 100 mg/L or chloride concentration of waters is less than 5 mg/L, the sulfate standard is 500 mg/L.
- B) If the hardness concentration of waters is greater than 500 mg/L and the chloride concentration of waters is 5 mg/L or greater, the sulfate standard is 2,000 mg/L.
- C) If the combination of hardness and chloride concentrations of existing waters are not reflected in subsection (h)(3)(A) or (B), the sulfate standard may be determined in a site-specific rulemaking pursuant to section 303(c) of the Federal Water Pollution Control Act of 1972 (Clean Water Act), 33 USC 1313, and Federal Regulations at 40 CFR 131.10(j)(2).

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(Source: Amended at 37 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

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- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1030.91	Amendment
1030.92	Amendment
1030.94	Amendment
1030.115	Amendment
1030.Appendix B	Amendment
- 4) Statutory Authority: 15 ILCS 305/6b; 15 ILCS 335/14(a-10); 625 ILCS 5/6-110(a) & (a-
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements several recent Public Acts. PA 97-1127 allows the Secretary of State to place an informational restriction on a driver's license to indicate a medical condition of the driver's license holder. The proposed revision to 1030.92 will allow the Secretary of State to add a restriction to designate aphasia, a medical condition.

PA 97-1064 changed nomenclature related to disabled persons and the revisions to 1030.91 reflect this change. In addition, unrelated to PA 97-1064, the Secretary of State took this opportunity to add the requirement that a medical report submitted to obtain a Person with a Disability Identification Card must be completed by the physician within the last three months.

The revision to 1030.94 implements PA 97-835, which allows the Secretary of State to waive fees for a duplicate identification card or driver's license, when the applicant lives in an area that has been declared a disaster area by the Governor of Illinois. The waiver applies only for a period of 30 days from the date of the declaration.

Revisions to 1030.115 and 1030 Appendix B implement PA 97-847, the Judicial Privacy Act, which allows a member of the judiciary to suppress personal information associated with a driver's license or identification card and further allows the judicial officer to have his or her business address appear on the driver's license or identification card (in lieu of a home address).
- 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

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The rulemaking will not create or enlarge a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:
- Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield, Illinois 62723
- 217/557-4462
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two recent Agendas because the need for this rulemaking was not anticipated at the time the Agendas were prepared.

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

SECRETARY OF STATE

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

Section	
1030.1	Definitions
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License
1030.12	Identification Cards for the Homeless
1030.13	Denial of License or Permit
1030.14	Emergency Contact Database
1030.15	Cite for Re-testing
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References (Repealed)
1030.22	Medical Examiner's Certificate – CDL Holders
1030.25	Safe Driver License Renewals
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers (Repealed)
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.82	Charter Bus Driver Endorsement Requirements
1030.83	Hazardous Material Endorsement
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts – Written and/or Road Tests
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Driver's Licenses and Temporary Instruction Permits
1030.90	Requirement for Photograph and Signature of Licensee on Driver's License

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- 1030.91 ~~Disabled~~ Person with a Disability Identification Card
- 1030.92 Restrictions
- 1030.93 Restricted Local Licenses
- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Consular Licenses (Repealed)
- 1030.96 Seasonal Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Endorsement or Instruction Permit
- 1030.100 Anatomical Gift Donor (Repealed)
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents

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

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 15130, effective September 2, 1986; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at

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15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective

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April 12, 2007; amended at 31 Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007; amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. 8489, effective June 5, 2009; amended at 33 Ill. Reg. 9794, effective June 29, 2009; amended at 33 Ill. Reg. 11620, effective July 22, 2009; amended at 33 Ill. Reg. 14185, effective September 28, 2009; amended at 34 Ill. Reg. 563, effective December 22, 2009; amended at 34 Ill. Reg. 9457, effective June 23, 2010; amended at 34 Ill. Reg. 15418, effective September 22, 2010; amended at 34 Ill. Reg. 19071, effective November 22, 2010; amended at 35 Ill. Reg. 2197, effective January 21, 2011; amended at 35 Ill. Reg. 4692, effective March 3, 2011; amended at 35 Ill. Reg. 19664, effective November 23, 2011; amended at 36 Ill. Reg. 3924, effective February 27, 2012; amended at 36 Ill. Reg. 7255, effective April 26, 2012; amended at 36 Ill. Reg. 14755, effective September 18, 2012; amended at 37 Ill. Reg. _____, effective _____.

Section 1030.91 ~~Disabled~~ Person with a Disability Identification Card

- a) If a person wishes to obtain an Illinois ~~Disabled~~ Person with a Disability Identification Card pursuant to Section 4(b) of the Illinois Identification Card Act [15 ILCS 335/4(b)], the individual shall complete an application form provided by the Department.
- b) The ~~Disabled~~ Person with a Disability Identification Card application shall include the person's legal name, address, social security number, gender, height, weight, hair color, eye color and date of birth. The applicant's medical professional shall certify in priority order the type of disability that the person has as physical, developmental, visual, hearing or mental and the classification of the disability to be Class 1, Class 1a, Class 2, or Class 2a as defined in Section 4(a) of the Illinois Identification Card Act. The medical professional shall sign the application and also print or type his/her name, business address and business phone number.
- c) The application forms shall not be accepted by the Department unless all portions of the form are completely filled out. Failure to complete the application properly shall result in the applicant's request being denied. The application is valid for a period of three months from the date of signature of the medical professional.
- d) If an applicant for a ~~Disabled~~ Person with a Disability Identification Card

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indicates on the application that the individual has a disability so severe that it precludes the applicant from obtaining an Illinois driver's license, and it is determined that the applicant has a valid Illinois driver's license, a [Disabled Person with a Disability](#) Identification Card shall be issued. The case shall be forwarded by the facility to the Driver Analysis Division of the Department for review and possible cancellation of the driver's license pursuant to 92 Ill. Adm. Code 1040.80.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 1030.92 Restrictions

- a) A driver services facility representative shall have the authority to determine license restrictions. No restriction shall be added until the driving test, [if required](#), is given unless the restriction is due to a vision or hearing defect.
- b) If a change in a person's physical and/or visual condition is discovered by a facility representative, the representative has the authority to add, delete or change the restrictions.
- c) A Type B restriction requires corrective eye lenses. This restriction is added when a person needs corrective eye lenses to meet visual acuity standards as provided in Section 1030.70. This restriction includes eye glasses and contact lenses in one or both eyes, pursuant to Section 1030.75.
- d) A Type C restriction requires the driver to use one or more mechanical aids (e.g., hand operated brake, gearshift extension, shoulder harness, or foot operated steering wheel) to assist with the proper and safe operation of the vehicle.
- e) A Type D restriction requires the driver to use one or more prosthetic aids (e.g., artificial legs, artificial hands, hook on right or left arm, or brace on each leg) while operating a motor vehicle.
- f) A Type E restriction requires automatic transmission. An automatic transmission restriction is added when a driver is unable to operate a standard shift vehicle due to the minimal use of one or both arms and/or legs.
- g) A Type F restriction requires left and right outside rearview mirrors when a driver is hearing impaired, has a monocular visual acuity reading of 20/100 or worse in either eye, requires a right outside rearview mirror because of problems turning

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the head while backing, cannot meet the peripheral vision requirements of Section 1030.70(a), and/or takes the road test in a right hand-driven vehicle with the steering wheel on the right side. A driver may be restricted to both left and right rearview mirrors if minimum peripheral standards are met by the use of only one eye in accordance with Sections 1030.70 and 1030.75.

- h) A Type G restriction requires the driver to drive only in the daylight. This restriction is added when a driver has binocular visual acuity that does not meet the 20/40 minimum in accordance with Section 1030.70(a), but is not worse than 20/70. People who want to drive utilizing a non-standard lens arrangement pursuant to Section 1030.75 are restricted to daylight driving only.
- i) A Type J restriction with appropriate numerical indicators includes other restrictions not listed in this Section. These Type J restrictions and numerical indicators are as follows:
 - 1) J01 Driver has been issued an Illinois Medical Restriction Card, which must be carried in addition to a valid Illinois driver's license/permit.
 - 2) J02 Driver authorized to operate a religious organization bus within classification, as provided in IVC Section 6-106.2.
 - 3) J03 Driver authorized to operate a religious organization bus or van within Class D only. The driver took the religious organization bus test in a Class D vehicle, but may hold a Class A, B or C license.
 - 4) J04 Driver authorized to operate a religious organization bus or van within Class C or a lesser classification vehicle only. The driver took the religious organization bus test in a Class C vehicle, but may hold a Class A or B license.
 - 5) J05 Driver authorized to operate a senior citizen transportation vehicle within classification. The driver operates a vehicle that is utilized solely for the purpose of providing transportation for senior citizens, as provided in IVC Section 6-106.3.
 - 6) J06 Driver authorized to operate a senior citizen transportation vehicle within Class D only. The driver took the senior citizen

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transportation vehicle test in a Class D vehicle, but may hold a Class A, B or C license.

- 7) J07 Driver authorized to operate a senior citizen transportation vehicle within written Class C vehicle, or a lesser classification vehicle only. The driver took the senior citizen transportation vehicle test in a Class C vehicle, but may hold a Class A or B license.
- 8) J08 Driver authorized to operate a commuter van in a for-profit ridesharing arrangement within classification, as provided in IVC Section 6-106.4.
- 9) J09 Driver who is 16 or 17 years of age authorized to operate either Class L motor-driven cycles or Class M motorcycles, as provided in IVC Section 6-103(2).
- 10) J10 Driver restricted to the operation of a vehicle with a GVWR of 16,000 pounds or less.
- 11) J11 Indicates the driver took the road test on a three-wheel motorcycle (Class M) or three-wheel motor-driven cycle (Class L) and is restricted to a three-wheel cycle of the proper class.
- 12) J14 Restricted to the use of a non-standard lens arrangement pursuant to Section 1030.75 when operating a motor vehicle. (Lens arrangement may be designed for monocular or binocular vision.)
- 13) J15 Special Restrictions – An applicant may have special restrictions applied specifically to the vehicle the applicant is operating at the time a road test is being administered by a facility examiner. These special restrictions may apply only when the applicant is operating that particular motor vehicle. This J15 restriction only applies to variations of C, D or E restrictions. To remove a special restriction or to operate another motor vehicle would require the applicant to be administered another road test in the new vehicle.
- 14) J16 Moped Only – Authorizes an applicant holding a Class L license to operate a moped only.

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- 15) J17 Authorizes a person holding a Class L or M license to operate a motorcycle or motor driven cycle with rear wheel extensions while maintaining a single front wheel.
- 16) J33 Driver authorized to operate a Class D vehicle using a non-standard lens arrangement, pursuant to Section 1030.75, during nighttime hours.
- 17) J50 Farm waived non-CDL (Class A only) – Allows farmers or a member of the farmer's family who is 21 years of age or older and has completed all of the applicable exams (core, combination, air brake, and all three parts of the road test) to drive a farm waived non-CDL (Class A only) vehicle. Those eligible may operate the truck/tractor semi-trailer to transport farm products, equipment or supplies to or from a farm, if used within 150 air miles of the farm, and not used in the operations of a common or contract carrier.
- 18) J71 No photo or signature – out of state at renewal – license issued to driver who is temporarily absent from State of Illinois at expiration date of his/her driver's license.
- 19) J72 No photo or signature – out of country at renewal – license issued to driver who is temporarily residing outside the United States of America at the expiration date of his/her driver's license.
- 20) J73 No photo or signature – military or military dependent – license issued at the expiration of the driver's license of the licensee, spouse and dependent children who are living with the licensee while on active duty serving in the Armed Forces of the United States outside the State of Illinois.
- 21) J74 Military deferral card issued at the expiration of the driver's license to extend the expiration while in the military of the licensee, spouse and dependent children who are living with the licensee while on active duty serving in the Armed Forces of the United States outside the State of Illinois.
- 22) J75 No photo or signature – administrative approval license to driver who having his/her photograph taken is against his/her religious convictions or has a serious facial disfigurement.

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- 23) J88 Deaf/Hard of Hearing – requires alternative forms of communication.
- 24) J89 [Aphasia – an impairment of language ability.](#)
- 25)24) J99 [Indicates This restriction appears on the license if more than two J restrictions have been placed on the license are placed on the driver.](#)
- j) A Type K restriction indicates the driver is authorized to operate a commercial motor vehicle intrastate only.
- k) A Type L restriction indicates that the person is not authorized to operate vehicles equipped with air brakes.
- l) A Type M restriction indicates P endorsement only valid in a Class B or lesser classification vehicle.
- m) A Type N restriction indicates P endorsement only valid in a Class C or lesser classification vehicle.
- n) A type V restriction indicates FMCSA has granted a medical variance to operate a CMV within the boundaries of the United States in accordance with 49 CFR 391.41 (2011).
- o) An applicant who wants to appeal a type of restriction that has been added to a driver's license, depending on the type of restriction, shall:
- 1) For Type B, C, D, E, F, G, J01, or any other medical restriction that has been added to the driver's license pursuant to the restrictions contained in subsection (i), follow the manner prescribed by this Part.
 - 2) For any other types of restrictions that have been added to the driver's license pursuant to this Section, appeal to the Department of Administrative Hearings pursuant to IVC Section 2-118.
 - 3) Further review of all restrictions shall be conducted by the courts pursuant to the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 1030.94 Duplicate or Corrected Driver's License or Instruction Permit

- a) A duplicate driver's license or instruction permit shall be issued by the Department when a driver's license or instruction permit has been lost, stolen, or mutilated.
- b) Upon an applicant's request or the Department's determination that an error was made or the license or permit was mutilated, a corrected driver's license or instruction permit shall be issued by the Department if a change of information is necessary on a driver's license or instruction permit that is being surrendered. The license or permit shall indicate that it has been corrected by displaying "COR" as the type of license.
- c) When there is no driver's license or instruction permit to be surrendered to the Department, the license or permit issued shall be a duplicate. This shall be indicated on the license or permit by displaying "DUP" as the type of license.
- d) The applicant shall pay a fee in accordance with IVC Section 6-118 for a duplicate driver's license, corrected driver's license or instruction permit. For a six month period after the issuance of a driver's license or permit, there shall be no fee charged to correct an error made by personnel at the Driver Services Facility. There shall be no fee charged for a duplicate if the license or permit was lost by the Department. If a license or permit is lost by a state, local or federal law enforcement agency or state or federal court, there shall be no fee charged for a duplicate upon written notification from that agency or court.
- e) The fee for a duplicate driver's license or identification card shall be waived if the applicant resides in a declared disaster area, as proclaimed by the Governor of Illinois, if the applicant submits the Secretary of State's Waiver of Fees for Disaster Victims form. This waiver shall only apply for a period of 30 days after the Governor files the disaster proclamation.
- f)e) In order to obtain a duplicate or corrected license or permit, an application form provided by the Department as described in IVC Section 6-106(b) shall be completed by a Driver Services Facility employee. The Non-CDL applicant shall answer the first 3 questions on the application and the CDL applicant shall answer the first 3 questions, in addition to questions 8, 9 and 10 on the application (see Appendix A). After the form has been completed and the fee paid, the applicant, if necessary, shall have a photograph taken as provided in Section 1030.90.

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(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 1030.115 Change-of-Address

- a) Pursuant to IVC Section 6-116, a person who changes address must inform the Secretary of State in writing within 10 days after the change. After proper notification of change of address, the address shall be changed on the driver's license file.
- b) To notify the Department of an address change, an individual may go to a Driver Services Facility and the address change will be made to the driver's license file at that time. Address changes may also be completed electronically on the Secretary of State's official website.
- c) Certain documents will be considered acceptable for notification of an address change if mailed to the Department. Correspondence from the person, the individual's attorney, or an immediate family member will be acceptable documentation. The Department shall also change the address on the driver's license file if one of the following is received: post office change-of-address card, Secretary of State change-of-address card, [Secretary of State Judicial Request to Suppress Personal Information form](#), court documents with "new address" written on them, certificates of insurance with a different address, Illinois Environmental Protection Agency Auto Emission postcards, a monitoring device driving permit order, or money orders reflecting new address.
- d) Documents not acceptable as notification to the Department of an address change include the following: conviction reports; failure to appear notices; statutory summary suspension sworn reports (unless there is an out-of-state address indicated on the statutory summary suspension sworn report that corresponds with the out-of-state address reported to the Department when the driver's license was surrendered out-of-state and returned to Illinois); court transcripts (unless "new address" is written on documents); accident reports; or addresses on checks unless "new address" is specified.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 1030.APPENDIX B Acceptable Identification Documents

- a) Except as provided for in subsections (m) and (n), an applicant applying for a driver's license or identification card for the first time in the State of Illinois must present one document from each of Group A, B and C and two documents from Group D as outlined in subsection (f).
- b) A foreign national applying for a temporary visitor's driver's license shall submit one document from Groups A and B and two documents from Group D to prove name, date of birth, temporary residency, legal presence and verification of signature. Temporary visitor's driver's license applicants are not required to present documents verifying social security numbers. Instead, they shall submit a letter on Social Security Administration letterhead, issued within 90 days prior to the date of application for a temporary visitor's driver's license, verifying ineligibility for a social security number. Acceptance of documents not listed in Groups A, B and D must be approved through the Director of Driver Services or his/her designee.
- c) Except as provided for in subsections (m), ~~and (n)~~, and (o), an applicant applying for either a duplicate or corrected driver's license or identification card must present one form of identification from Group A and at least one form from Group B and C or two from Group D if requesting an address change to appear on the documents, as outlined in subsection (f). An applicant who requests a change in name, date of birth, social security number or gender must provide acceptable identification to create a link pertaining to the change between the previous information and the new information.
- d) A foreign national applying for a duplicate or corrected temporary visitor's driver's license shall submit one document from Groups A and B and two documents from Group D to prove name, date of birth, temporary residency, legal presence and verification of signature. An applicant who requests a change in name, date of birth or gender must provide acceptable identification to create a link pertaining to the change between the previous information and the new information. An applicant requesting an address change to appear on the document must provide two forms of acceptable documents from Group D. Acceptance of documents not listed in Groups A, B and D must be approved through the Director of Driver Services or his/her designee.
- e) Applicants renewing a current Illinois driver's license or identification card need only present a current valid license or ID card. If they do not have a current

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driver's license or ID card, they must present one form of identification from Group A and at least one form from Group B, C or D, as outlined in subsection (f). Except as provided for in subsections (m) and (n), applicants who are requesting an address change to appear on the documents are required to provide two documents from Group D as outlined in subsection (f).

- f) Documents of identification that are acceptable for the purpose of obtaining a driver's license, permit and/or identification card are listed by group. Photocopies will not be accepted. **All acceptable documents presented for verification or proof must be valid (current and not expired).** Photocopies will not be accepted.

1) GROUP A (Written Signature)

Canceled Check (dated within 90 days prior to application)

Cooperative Driver Training Program (CDTP) Certification Form

Court Order

Credit Card/Debit Card – Major Brand

Driver Education Certificate

Government Driver's License

Government Identification Card

Illinois Driver's License – current

Illinois Identification Card – current

U.S. Citizenship and Immigration Services (USCIS)
forms:

I-551 (Alien Registration Card)

I-766 (Employment Authorization Card)

I-94 (Arrival/Departure Record) with Valid Passport

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Medicare Card – with suffix A, J, H, M or T

Military Driver's License – U.S.

Military Identification Card – U.S.

Military Service Record – DD214

Mortgage or Installment Loan Documents

Out-of-state Driver's License/ID Card – current

Passport – Valid US or Foreign

Social Security Card

2) GROUP B (Proof of Date of Birth)

Adoption Records

Birth Certificate

Court Order – Change of Birth Date

Certified Grade/High School/College/University Transcript

Illinois Driver's License – current

Illinois Identification Card – current

U.S. Citizenship and Immigration Services (USCIS) forms:

I-551 (Alien Registration Card)

I-571 (Refugee Travel Document)

I-766 (Employment Authorization Card)

I-797 (Notice of Action Status Change)

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I-94 (Arrival/Departure Record) with Valid Passport

U.S. Visa

Military Driver's License – U.S.

Military Identification Card – U.S.

Military Service Record – DD214

Naturalization Certificate

Passport – Valid with Complete Date of Birth

U.S. Passport Card – Valid with Complete Date of Birth

Social Security Award Letter (Primary Beneficiary Only)

3) GROUP C (Social Security Number)

Illinois Driver's License Record

Illinois Identification Card Record

Military Driver's License – U.S.

Military Identification Card – U.S.

Military Service Record – DD214

Social Security Award Letter (Primary Beneficiary Only)

Social Security Card – issued by Social Security Administration

4) GROUP D (Residency)

Affidavit – Certificate of Residency

Bank Statement (dated within 90 days prior to application)

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Canceled Check (dated within 90 days prior to application)

Certified Grade/High School/College/University Transcript

Credit Report issued by Experian, Equifax or TransUnion – dated within 12 months prior to application

Deed/Title, Mortgage, Rental/Lease Agreement

Insurance Policy (Homeowner's or Renter's)

Letter on Official School Letterhead – dated within 90 days prior to application

Medical claim or statement of benefits from private insurance company or public (government) agency, dated within 90 days prior to application

Official mail received from a State, County, City or Village or a Federal Government agency that includes first and last name of the applicant and complete current address. This may include, but is not limited to:

Homestead Exemption Receipt

Illinois FOID Card

Jury Duty Notice issued within 90 days prior to application

Selective Service Card

Social Security Annual Statement

Social Security Disability Insurance (SSDI) Statement

Supplemental Security Income (SSI) Benefits Statement

Voter Registration Card

Pay Stub or Electronic Deposit Receipt

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Pension or Retirement Statement

Phone book, current, produced by a phone book publisher

Report Card from Grade/High School or College/University

Tuition invoice or other official mail from a college or university dated within the 12 months prior to application

Vehicle Registration Card

Utility Bill – Electric, water, refuse, telephone (land or cell), cable or gas, issued within 90 days prior to application

- g) Documents listed in Group A, B or C, as outlined in subsection (f), that contains the full residence address may also be used for Group D, as outlined in subsection (f).
- h) For a name change, the identification must be a document that provides a link to the established driver's license/ID Card file.
- i) Group B documents, as outlined in subsection (f), must contain the applicant's full name and complete date of birth and must be verifiable. To be verifiable, it must be possible to contact the regulatory authority to confirm the authenticity of the document. Birth certificate must be the original or certified by a Board of Health or Bureau of Vital Statistics within the US or by the US State Department, US Territories or Canada. A certified copy is a document produced by the issuing jurisdiction that has an embossed seal or an original stamped impression. Foreign passports and foreign birth certificates are accepted as "proof" if accompanied by any other item listed in Group B.
- j) Group C documents, as outlined in subsection (f), must contain the applicant's name and full social security number.
- k) Group D documents, as outlined in subsection (f), must contain the applicant's full residence address.
- l) After review of all identification presented, Driver Services or Secretary of State management has the right to accept or refuse any document.

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- m) An applicant applying for a no-fee identification card who is homeless must present one document from each of Group A, B and C, as outlined in subsection (f), and a homeless status certification, as described in Section 1030.12, to satisfy the requirements for Group D, as outlined in subsection (f).
- n) An applicant for an identification card who is under the age of five years old must present one document from each of Group A, B and C, as outlined in subsection (f), and one document from Group D, as outlined in subsection (f).

o) [A judicial officer who wishes to change his or her residence address or mailing address to his or her business address, pursuant to the Judicial Privacy Act \[705 ILCS 90\], is required to present only a Secretary of State Request to Suppress Personal Information form as proof of residency.](#)

p)⊕) Unacceptable identification documents are:

Bond Receipt or Bail/Bond Card

Business Cards

Check Cashing Cards

Club or Fraternal Membership Cards

College or University Identification Cards

Commercially Produced (non-State or unofficial) ID Cards

Fishing License

HFS (Healthcare and Family Services) Cards

Handwritten ID or Employment Cards

Hunting License

Instruction Permit/Receipts

Insurance

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Library Card

Personal Mail

Temporary Driver's License

Traffic Citation (Arrest Ticket)

Video Club Membership Cards

Wallet IDs

Unlicensed Financial Institution Loan Papers

(Source: Amended at 37 Ill. Reg. _____, effective _____)

DEPARTMENT OF VETERANS' AFFAIRS

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- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because the Department did not anticipate the need for rulemaking at the time the Agendas were published.

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

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TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER I: DEPARTMENT OF VETERANS' AFFAIRSPART 108
PAYMENT OF MAINTENANCE CHARGES AND INCOME MANAGEMENT
AT THE ILLINOIS VETERANS HOMES

Section

108.10	Resident Liability for Payment of Maintenance Charges
108.20	Allowances for Unusual Expenses
108.30	Investigation of Financial Condition of Residents
108.40	Filing of Financial Statements
108.50	Income Used in Computing Maintenance Charge
108.60	Rejection of Application or Discharge from Homes
108.70	Allowance Based on Total Income
108.80	Purchase of Personal Items
108.90	Due Date of Maintenance Charges
108.100	Liability of Conservator
108.110	Transmittal of Funds
108.120	Failure to Pay Maintenance Charges
108.130	Assessment of Maintenance Charges
108.140	Deposit Requirements
108.150	Allowable Unusual Expenses
108.160	Claims Against the Residents' Estates
108.170	Maintenance Charges for Member With Dependent

AUTHORITY: Implementing Sections 2, 2.03 and 2.04 authorized by Sections 2 and 2.06 of the Department of Veterans Affairs Act [20 ILCS 2805].

SOURCE: Rules filed and effective December 15, 1977; codified at 6 Ill. Reg. 17, p. 64, effective May 1, 1979; codified at 6 Ill. Reg. 8440; amended at 12 Ill. Reg. 4225, effective February 29, 1988; amended at 25 Ill. Reg. 8841, effective June 29, 2001; amended at 37 Ill. Reg. _____, effective _____.

Section 108.130 Assessment of Maintenance Charges

- a) Maintenance charges for each resident of an Illinois Veterans Home shall be assessed at the rate of 90% of all income ~~in excess of \$100 per month up to~~, but not exceeding the average annual per capita cost of maintenance as computed

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annually.

- b) Veteran and spouse, both at a Home, will each pay maintenance charges based upon one-half of their combined monthly income, and are each entitled to the monthly allowance amount ~~\$100 exclusion~~.

- c) Monthly Allowance
Residents shall be entitled to a month allowance of \$100/month for every \$1000 in paid monthly maintenance charges.

EXAMPLE: A \$100 allowance will be provided to the resident (and qualifying resident spouse) for \$.01 to \$1000 in paid maintenance charges. A \$200 allowance will be provided to the resident (and qualify resident spouse) for \$1000.01 to \$2000 in paid maintenance charges. A \$300 allowance will be provided to the resident (and qualifying resident spouse) for \$2000.01 to \$3000 in paid maintenance charges; etc.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Request for Public Records
- 2) Code Citation: 2 Ill. Adm. Code 1226
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1226.10	Repeal
1226.20	Repeal
1226.110	Repeal
1226.120	Repeal
1226.210	Repeal
1226.220	Repeal
1226.310	Repeal
1226.320	Repeal
1226.330	Repeal
1226.410	Repeal
1226.420	Repeal
1226.430	Repeal
1226.APPENDIX A	Repeal
1226.APPENDIX B	Repeal
- 4) Statutory Authority: Implementing and authorized by the Freedom of Information Act [5 ILCS 140]; Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]; and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16]
- 5) Effective Date of Repealer: February 8, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's Office of Chief Counsel and is available for public inspection.
- 9) Notice of Proposal Published in *Illinois Register*: This rulemaking is exempt from the public comment period and the JCAR review period, as authorized by Section 5-15(b) of the Illinois Administrative Procedure Act [5 ILCS 100/5-15(b)].
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Not Applicable

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- 11) Differences between proposal and final version: Not Applicable
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Not Applicable
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Repealer: Elsewhere in this issue of the *Illinois Register*, the Department has adopted a new FOIA rule that reflects changes made to the Freedom of Information Act [5 ILCS 140] by PA 96-542, effective January 1, 2010 and PA 97-579, effective August 26, 2011.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Ms. Barbara Brush, FOIA Officer
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 300
Springfield, Illinois 62764

217/785-2965

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Access to Records of the Department of Transportation
- 2) Code Citation: 2 Ill. Adm. Code 1226
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1226.10	New
1226.20	New
1226.100	New
1226.110	New
1226.120	New
1226.200	New
1226.210	New
1226.220	New
1226.300	New
1226.310	New
1226.315	New
1226.320	New
1226.330	New
1226.340	New
1226.350	New
1226.360	New
1226.400	New
1226.410	New
1226.420	New
1226.APPENDIX A	New
- 4) Statutory Authority: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140/3(h)], implementing Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]
- 5) Effective Date of Rules: February 8, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's Office of Chief Counsel and is available for public inspection.

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- 9) Notice of Proposal Published in *Illinois Register*: This rulemaking is exempt from the public comment period and the JCAR review period, as authorized by Section 5-15(b) of the Illinois Administrative Procedure Act [5 ILCS 100/5-15(b)].
- 10) Has JCAR issued a Statement of Objection to these rules? Not Applicable
- 11) Differences between proposal and final version: Not Applicable
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Not Applicable
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of the Rules: By this rulemaking, the Department has adopted this new Part to reflect changes made to the Freedom of Information Act [5 ILCS 140] by PA 96-542, effective January 1, 2010 and PA 97-579, effective August 26, 2011, and, elsewhere in this issue of the *Illinois Register*, has repealed the Department's old FOIA rule.
- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Barbara Brush, FOIA Officer
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 300
Springfield, Illinois 62764

217/785-2965

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

DEPARTMENT OF TRANSPORTATION

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TITLE 2: GOVERNMENTAL ORGANIZATION

SUBTITLE D: CODE DEPARTMENTS

CHAPTER XXII: DEPARTMENT OF TRANSPORTATION

PART 1226

ACCESS TO RECORDS OF THE DEPARTMENT OF TRANSPORTATION

SUBPART A: INTRODUCTION

Section

- 1226.10 Summary and Purpose
- 1226.20 Definitions

SUBPART B: CLASSIFICATION OF RECORDS

Section

- 1226.100 Records that Will Be Disclosed
- 1226.110 Records that Will Be Withheld from Disclosure
- 1226.120 Statutory Exemptions

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE AGENCY

Section

- 1226.200 Submittal of Requests for Records
- 1226.210 Information To Be Provided in Requests for Records
- 1226.220 Requests for Records for Commercial Purposes

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section

- 1226.300 Timeline for Agency Response
- 1226.310 Requests for Records that the Agency Considers Unduly Burdensome
- 1226.315 Recurrent Requesters
- 1226.320 Requests for Records that Require Electronic Retrieval
- 1226.330 Denials of Requests for Records
- 1226.340 Requests for Review of Denials – Public Access Counselor
- 1226.350 Circuit Court Review
- 1226.360 Administrative Review

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SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section

- 1226.400 Inspection and Copying of Records
- 1226.410 Copying of Records; Fees
- 1226.420 Reduction and Waiver of Fees

1226.APPENDIX A Fee Schedule for Duplication and Certification of Records

AUTHORITY: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140/3(h)], implementing Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted and codified at 8 Ill. Reg. 12526, effective July 1, 1984; amended at 19 Ill. Reg. 1334, effective January 31, 1995; amended at 31 Ill. Reg. 11366, effective July 17, 2007; old Part repealed at 37 Ill. Reg. 2475 and new Part adopted at 37 Ill. Reg. 2477, effective February 8, 2013.

SUBPART A: INTRODUCTION

Section 1226.10 Summary and Purpose

- a) This Part states the policy of the Department of Transportation (Agency) for making its records available for reasonable public inspection while, at the same time, protecting legitimate interests in confidentiality.
- b) This Part:
 - 1) Establishes the following classifications for records in the Agency's possession:
 - A) Records that will be disclosed; and
 - B) Records that will be withheld from disclosure.
 - 2) Contains the procedures by which requesters may obtain records in the Agency's possession; and

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- 3) Contains the procedures for claiming and determining that records submitted to the Agency are exempt from disclosure.

Section 1226.20 Definitions

Terms not defined in this Section shall have the same meaning as in the Freedom of Information Act [5 ILCS 140]. The following definitions are applicable for purposes of this Part:

"Agency" means the Department of Transportation.

"Commercial purpose" means the use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is:

to access and disseminate information concerning news and current or passing events;

for articles of opinion or features of interest to the public; or

for the purpose of academic, scientific, or public research or education.
(Section 2(c-10) of FOIA)

"Copying" means the reproduction of any public record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to the Agency. (Section 2(d) of FOIA)

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Freedom of Information Officer" or "FOI Officer" means an individual or individuals responsible for receiving and responding to requests for public records.

"News media" means a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format, a radio station, a television station, a television network, a

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community antenna television service, or person or corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

"Person" means any individual, corporation, partnership, firm, organization or association, acting individually or as a group. (Section 2(b) of FOIA)

"Private information" means unique identifiers, including a person's Social Security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Section 2(c-5) of FOIA)

"Public Access Counselor" means an individual appointed to that office by the Attorney General under Section 7 of the Attorney General Act [15 ILCS 205].

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, any subsidiary bodies of any of the foregoing, including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code [105 ILCS 5]. (Section 2(a) of FOIA)

"Public Records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of or under the control of the Agency. (Section 2(c) of FOIA)

"Recurrent Requester" means a person that, in the 12 months immediately preceding the request, has submitted to the Agency, a minimum of 50 requests for records, a minimum of 15 requests for records within a 30-day period, or a minimum of 7 requests for records within a 7-day period. For purposes of this definition, requests made by news media and non-profit, scientific, or academic

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organizations shall not be considered in calculating the number of requests made in the time periods in this definition when the principal purpose of the requests is to access and disseminate information concerning news and current or passing events, for articles of opinion or features of interest to the public, or for the purpose of academic, scientific, or public research or education. For the purposes of this definition, "request" means a written document (or oral request, if the Agency chooses to honor oral requests) that is submitted to the Agency via personal delivery, mail, telefax, electronic mail, or other means available to the Agency and that identifies the particular public record the requester seeks. One request may identify multiple records to be inspected or copied. (Section 2(g) of FOIA)

"Requester" is any person who has submitted to the Agency a written request, electronically or on paper, for records.

"Secretary" means the Secretary of the Agency.

"Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. (Section 7(1)(c) of FOIA)

SUBPART B: CLASSIFICATION OF RECORDS

Section 1226.100 Records that Will Be Disclosed

Upon a request meeting the requirements of this Part, the Agency shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Section 1226.110 or 1226.120. Records covered under this Section shall include, but not be limited to:

- a) *Records of funds. All records relating to the obligation, receipt and use of public funds of the Agency are records subject to inspection and copying by the public. (Section 2.5 of FOIA)*
- b) *Payrolls. Certified payroll records submitted to the Agency under Section 5(a)(2) of the Prevailing Wage Act [820 ILCS 130] are records subject to inspection and copying in accordance with the provisions of FOIA; except that contractors' and employees' addresses, telephone numbers, and Social Security numbers will be redacted by the Agency prior to disclosure. (Section 2.10 of FOIA)*

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- c) *Criminal history records. The following documents maintained by the Agency pertaining to criminal history record information are records subject to inspection and copying by the public pursuant to FOIA:*
- 1) *Court records that are public;*
 - 2) *Records that are otherwise available under State or local law; and*
 - 3) *Records in which the requesting party is the individual identified, except as provided under Section 1226.110(a)(5)(F) of this Part. (Section 2.15(b) of FOIA)*
- d) *Settlement agreements. All settlement agreements entered into by or on behalf of the Agency are records subject to inspection and copying by the public, provided that information exempt from disclosure under Section 1226.110 or 1226.120 of this Part may be redacted. (Section 2.20 of FOIA)*

Section 1226.110 Records that Will Be Withheld from Disclosure

When a request is made to inspect or copy a record that contains information that is otherwise exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the Agency shall make the remaining information available for inspection and copying. (Section 7(1) of FOIA)

- a) *Subject to this requirement and Section 7 of FOIA, the following shall be exempt from inspection and copying:*
- 1) *Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law; (Section 7(1)(a) of FOIA)*
 - 2) *Private information, unless disclosure is required by another provision of FOIA, a State or federal law or a court order; (Section 7(1)(b) of FOIA)*
 - 3) *Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the*

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physical or mental status of one or more individual subjects; (Section 7(1)(b-5) of FOIA)

- 4) *Personal information contained within records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy; (Section 7(1)(c) of FOIA)*
- 5) *Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:*
 - A) *Interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;*
 - B) *Interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;*
 - C) *Create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;*
 - D) *Unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the Agency will provide traffic accident reports, the identities of witnesses to traffic accidents, and rescue reports, except when disclosure would interfere with an active criminal investigation;*

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- E) *Disclose unique or specialized investigative techniques other than those generally used and known, or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the Agency;*
- F) *Endanger the life or physical safety of law enforcement personnel or any other person; or*
- G) *Obstruct an ongoing criminal investigation by the Agency;*
(Section 7(1)(d) of FOIA)
- 6) *Records that relate to or affect the security of correctional institutions and detention facilities;* (Section 7(1)(e) of FOIA)
- 7) *Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the Agency. The exemption provided in this subsection (a)(7) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents;*
(Section 7(1)(f) of FOIA)
- 8) *Trade secrets and commercial or financial information obtained from a person or business where 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, and only insofar as the claim directly applies to the records requested. All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this subsection (a)(8) does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this subsection (a)(8) does not apply to the identity*

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of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm. Nothing in this subsection (a)(8) shall be construed to prevent a person or business from consenting to disclosure; (Section 7(1)(g) of FOIA)

- 9) *Proposals and bids for any contract, grant, or agreement, including information that if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made; (Section 7(1)(h) of FOIA)*
- 10) *Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by the Agency when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this subsection (a)(10) does not extend to requests made by news media as defined in Section 1226.20 when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public; (Section 7(1)(i) of FOIA)*
- 11) *The following information pertaining to educational matters:*
 - A) *Test questions, scoring keys, and other examination data used to administer an academic exam;*
 - B) *Information received by a primary or secondary school, college, or university under its procedure for the evaluation of faculty members by their academic peers;*
 - C) *Information concerning a school's or university's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and*
 - D) *Course materials or research materials used by faculty members; (Section 7(1)(j) of FOIA)*

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- 12) *Architects' plans and engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security; (Section 7(1)(k) of FOIA)*
- 13) *Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act [5 ILCS 120] until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act; (Section 7(1)(l) of FOIA)*
- 14) *Communications between the Agency and an attorney or auditor representing the Agency that would not be subject to discovery in litigation, and materials prepared or compiled by or for the Agency in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the Agency, and materials prepared or compiled with respect to internal audits of the Agency; (Section 7(1)(m) of FOIA)*
- 15) *Records relating to the Agency's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed; (Section 7(1)(n) of FOIA)*
- 16) *Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section; (Section 7(1)(o) of FOIA)*

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- 17) *Records relating to collective negotiating matters between the Agency and its employees or representatives, except that any final contract or agreement shall be subject to inspection and copying; (Section 7(1)(p) of FOIA)*
- 18) *Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment; (Section 7(1)(q) of FOIA)*
- 19) *The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act [735 ILCS 30], records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt only until a sale is consummated; (Section 7(1)(r) of FOIA)*
- 20) *Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice or communications; (Section 7(1)(s) of FOIA)*
- 21) *Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law; (Section 7(1)(t) of FOIA)*
- 22) *Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act [5 ILCS 175]; (Section 7(1)(u) of FOIA)*

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- 23) *Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this subsection (a)(23) may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations; (Section 7(1)(v) of FOIA)*
- 24) *Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency; (Section 7(1)(x) of FOIA)*
- 25) *Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act [20 ILCS 3855] and Section 16-111.5 of the Public Utilities Act [220 ILCS 5] that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission; (Section 7(1)(y) of FOIA)*
- 26) *Information about students exempted from disclosure under Section 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009 [110 ILCS 26]; (Section 7(1)(z) of FOIA)*
- 27) *Information the disclosure of which is exempted under the Viatical Settlements Act of 2009 [215 ILCS 158]; (Section 7(1)(aa) of FOIA)*
- 28) *Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Database under the Cemetery Care Act [760 ILCS 100] or the Cemetery Oversight Act [225 ILCS 411], whichever is applicable. (Section 7(1)(bb) of FOIA)*

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- b) *A record that is not in the possession of the Agency but is in the possession of a party with whom the Agency has contracted to perform a governmental function on behalf of the Agency, and that directly relates to the governmental function and is not otherwise exempt under FOIA, shall be considered a record of the Agency for purposes of Subpart C. (Section 7(2) of FOIA)*

Section 1226.120 Statutory Exemptions

To the extent provided for by the following statutes, the following shall be exempt from inspection and copying:

- a) *All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act [20 ILCS 700].*
- b) *Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act [75 ILCS 70].*
- c) *Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.*
- d) *Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act [410 ILCS 325].*
- e) *Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act [420 ILCS 44].*
- f) *Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535].*
- g) *Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act [110 ILCS 979].*
- h) *Information the disclosure of which is exempted under the State Officials and Employees Ethics Act [5 ILCS 430] and records of any lawfully created State or*

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local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

- i) *Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code [65 ILCS 5].*
- j) *Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act [20 ILCS 2605].*
- k) *Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code [625 ILCS 5].*
- l) *Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act [210 ILCS 28].*
- m) *Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act [765 ILCS 77], except to the extent authorized under that Article.*
- n) *Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act [725 ILCS 124]. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.*
- o) *Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act [410 ILCS 525].*
- p) *Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act [70 ILCS 3615] or the St. Clair County Transit District under the Bi-State Transit Safety Act [45 ILCS 111].*

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- q) *Information prohibited from being disclosed by the Personnel Records Review Act [820 ILCS 40].*
- r) *Information prohibited from being disclosed by the Illinois School Student Records Act [105 ILCS 10].*
- s) *Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act [220 ILCS 5]. (Section 7.5 of FOIA)*

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE AGENCY**Section 1226.200 Submittal of Requests for Records**

- a) Contact information for the FOI Officer can be found online at www.dot.il.gov.
- b) FOIA requests may be submitted via mail, e-mail, fax or hand delivery. Requests should be mailed or hand delivered to:

Illinois Department of Transportation
2300 South Dirksen Parkway, Room 300
Springfield IL 62764
Attn.: FOIA Officer

- c) E-mailed requests should be sent to dot.foiaofficer@dot.il.gov, contain the request in the body of the e-mail, and indicate in the subject line of the e-mail that it contains a FOIA request. Faxed FOIA requests should be faxed to 217/524-0198, Attn.: FOIA Officer.

Section 1226.210 Information To Be Provided in Requests for Records

A request for records should include:

- a) The complete name, mailing address and telephone number of the requester;
- b) As specific a description as possible of the records sought. Requests that the Agency considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 1226.310 of this Part.);

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- c) A statement as to the requested medium and format for the Agency to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;
- d) A statement as to the requested manner for the Agency to use in providing the records sought: for example, inspection at Agency headquarters or providing paper or electronic copies;
- e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and
- f) A statement as to whether the request is for a commercial purpose.

Section 1226.220 Requests for Records for Commercial Purposes

- a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the Agency. (Section 3.1(c) of FOIA)*
- b) *The Agency shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*
 - 1) *Provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*
 - 2) *Deny the request pursuant to one or more of the exemptions set out in Section 1226.110 or 1226.120;*
 - 3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *Provide the records requested. (Section 3.1(a) of FOIA)*
- c) *Unless the records are exempt from disclosure, the Agency shall comply with a request within a reasonable period considering the size and complexity of the*

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request, and giving priority to records requested for non-commercial purposes.
(Section 3.1(b) of FOIA)

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section 1226.300 Timeline for Agency Response

- a) Except as stated in subsection (b) or (c), the Agency will respond to any written request for records within 5 business days after its receipt of the request. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Agency fails to respond to a request within the requisite periods in this subsection (a) but thereafter provides the requester with copies of the requested records, it will not impose a fee for such copies. If the Agency fails to respond to a request received, it will not treat the request as unduly burdensome as provided under Section 1226.310. (Section 3(d) of FOIA) A written request from the Agency to provide additional information shall be considered a response to the FOIA request.
- b) *The time limits prescribed in subsection (a) may be extended for not more than 5 business days from the original due date for any of the following reasons:*
- 1) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*
 - 2) *The request requires the collection of a substantial number of specified records;*
 - 3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*
 - 4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*
 - 5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;*

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- 6) *The request for records cannot be complied with by the Agency within the time limits prescribed by subsection (a) without unduly burdening or interfering with the operations of the Agency; or*
- 7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request. (Section 3(e) of FOIA)*
- c) *The person making a request and the Agency may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Agency agree to extend the period for compliance, a failure by the Agency to comply with any previous deadlines shall not be treated as a denial of the request for the records. (Section 3(e) of FOIA)*
- d) *When additional time is required for any of the reasons set forth in subsection (b), the Agency will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Agency fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it may not impose a fee for those copies. If the Agency issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under Section 1226.310. (Section 3(f) of FOIA)*

Section 1226.310 Requests for Records that the Agency Considers Unduly Burdensome

- a) *The Agency will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Agency, there is no way to narrow the request, and the burden on the Agency outweighs the public interest in the information. Before invoking this exemption, the Agency will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions. (Section 3(g) of FOIA) The amended request must be in writing.*
- b) *If the Agency determines that a request is unduly burdensome, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent*

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to which compliance will so burden the operations of the Agency. Such a response shall be treated as a denial of the request for information. (Section 3(g) of FOIA)

- c) *Repeated requests for records that are unchanged or identical to records previously provided or properly denied under this Part from the same person shall be deemed unduly burdensome. (Section 3(g) of FOIA)*

Section 1226.315 Recurrent Requesters

- a) *Notwithstanding any provision of this Part to the contrary, the Agency will respond to a request from a recurrent requester, as defined in Section 1226.20, within 21 business days after receipt. The response will:*
- 1) *provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*
 - 2) *deny the request pursuant to one or more of the exemptions set out in this Part;*
 - 3) *notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *provide the records requested.*
- b) *Within 5 business days after receiving a request from a recurrent requester, the Agency will notify the requestor that the Agency is treating the request as a recurrent request, and that the Agency will send an initial response within 21 business days after receipt in accordance with subsection (a). The Agency will also notify the requester of the proposed responses that can be asserted pursuant to subsection (a).*
- c) *Unless the records are exempt from disclosure, the Agency will comply with a request within a reasonable period considering the size and complexity of the request. (Section 3.2 of FOIA)*

Section 1226.320 Requests for Records that Require Electronic Retrieval

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- a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.
- b) The Agency will retrieve and provide electronic records only in a format and medium that is available to the Agency.

Section 1226.330 Denials of Requests for Records

- a) The Agency will deny requests for records when:
 - 1) Compliance with the request would unduly burden the Agency, as determined pursuant to Section 1226.310, and the requester has not reduced the request to manageable proportions; or
 - 2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 1226.110 or 1226.120.
- b) The denial of a request for records must be in writing.
 - 1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);
 - 2) *Each notice of denial shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor* (Section 9(a) of FOIA); and
 - 3) *When a request for records is denied on the grounds that the records are exempt under Section 7 or 7.5 of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority* (Section 9(b) of FOIA).
- c) A requester may treat the Agency's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.

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- d) If the Agency has given written notice pursuant to Section 1226.300(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.
- e) *Any person making a request for records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Agency fails to act within the time periods provided in Section 1226.300. (Section 9(c) of FOIA)*

Section 1226.340 Requests for Review of Denials – Public Access Counselor

- a) *A person whose request to inspect or copy a record is denied by the Agency may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. (Section 9.5(a) of FOIA)*
- b) *Within 7 business days after the Agency receives a request for review from the Public Access Counselor, the Agency shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. (Section 9.5(c) of FOIA)*
- c) *Within 7 business days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the Agency may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. (Section 9.5(d) of FOIA)*
- d) *The requester may, but is not required to, respond in writing to the answer within 7 business days and shall provide a copy of the response to the Agency. (Section 9.5(d) of FOIA)*
- e) *In addition to the request for review, and the answer and response thereto, if any, a requester or the Agency may furnish affidavits or records concerning any matter germane to the review. (Section 9.5(e) of FOIA)*

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- f) *A binding opinion from the Attorney General shall be binding upon both the requester and the Agency, subject to administrative review under Section 1226.360. (Section 9.5(f) of FOIA)*
- g) *If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable. (Section 9.5(f) of FOIA)*
- h) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the Agency shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 1226.360. If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under Section 1226.360. (Section 9.5(f) of FOIA)*
- i) *If the Agency discloses records in accordance with an opinion of the Attorney General, the Agency is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA. (Section 9.5(f) of FOIA)*
- j) *If the requester files suit under Section 1226.350 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall so notify the Agency. (Section 9.5(g) of FOIA)*
- k) *The Attorney General may also issue advisory opinions to the Agency regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the Secretary of the Agency or the Agency's Chief Legal Counsel, which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Agency in order to assist in the review. If the Agency relies in good faith on an advisory opinion of the Attorney General in responding to a request, the Agency is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor. (Section 9.5(h) of FOIA)*

Section 1226.350 Circuit Court Review

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A requester also has the right to file suit for injunctive or declaratory relief in the Circuit Court for Sangamon County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA.

Section 1226.360 Administrative Review

A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law [735 ILCS 5/Art. III]. An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook County or Sangamon County. An advisory opinion issued to the Agency shall not be considered a final decision of the Attorney General for purposes of this Section. (Section 11.5 of FOIA)

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section 1226.400 Inspection and Copying of Records

- a) The Agency may make available records for personal inspection at the Agency's headquarters office located at 2300 South Dirksen Parkway, Springfield, Illinois, or at another Agency facility agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record. The Agency may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.
- b) *When a person requests a copy of a record maintained in an electronic format, the Agency shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified electronic format, then the Agency shall furnish it in the format in which it is maintained by the Agency, or in paper format at the option of the requester. (Section 6(a) of FOIA)*
- c) A requester may inspect records at the Agency's headquarters or at another Agency facility agreed to by both the Agency and the requester by appointment only, scheduled subject to space availability. The Agency will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. If the requester

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must cancel the viewing appointment, the requester shall so inform the Agency as soon as possible before the appointment.

- d) In order to maintain routine Agency operations, the requester may be asked to leave the inspection area for a specified period of time.
- e) The requester will have access only to the designated inspection area.
- f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Agency employee may be present during the inspection.
- g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

Section 1226.410 Copying of Records; Fees

- a) In accordance with Section 1226.420, unless a fee is otherwise fixed by statute, the Agency will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.
- b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Agency to reproduce records, the Agency will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records. (Section 6(b) of FOIA)*
- c) In order to expedite the copying of records that the Agency cannot copy, due to the volume of the request or the operational needs of the Agency, in the timelines established in Section 1226.300, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Agency headquarters in Section 1226.400, or at another Agency facility agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record.
- d) Copies of records will be provided to the requester only upon payment of any fees due. *The Agency may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Agency will not charge the requester for the costs of any search for and review of the*

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records or other personnel costs associated with reproducing the records.
(Section 6(a) of FOIA) Payment must be by check or money order sent to the Agency, payable to "Treasurer, State of Illinois".

- e) If a contractor is used to inspect or copy records, the following procedures shall apply:
- 1) The requester, rather than the Agency, must contract with the contractor;
 - 2) The requester is responsible for all fees charged by the contractor;
 - 3) The requester must notify the Agency of the contractor to be used prior to the scheduled on-site inspection or copying;
 - 4) Only Agency personnel may provide records to the contractor;
 - 5) The Agency must have verification that the requester has paid the Agency, if payment is due, for the copying of the records before providing the records to the contractor; and
 - 6) The requester must provide to the Agency the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

Section 1226.420 Reduction and Waiver of Fees

- a) *Fees may be reduced or waived by the Agency if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Agency will consider the following:*
- 1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*
 - 2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health,*

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safety, welfare or legal rights of the general public. (Section 6(c) of FOIA)

- b) The Agency will provide copies of records without charge to federal, State and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.
- c) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of public records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format.* (Section 6(a) of FOIA)

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Section 1226.APPENDIX A Fee Schedule for Duplication and Certification of Records

TYPE OF DUPLICATION	FEE (PER COPY)
Paper copy from original, up to and including 50 copies of black and white, letter or legal sized copies	No charge
Paper copy from original, in excess of 50 copies of black and white, letter or legal sized copies	\$.15/page
Paper copy from microfilm original	\$.15/page
Microfilm diazo from original	\$.50/diazo
VHS video copy of tape	Actual cost of the reproduction
Audio tape copy of tape	Actual cost of the reproduction
CD ROM disk	Actual cost of the reproduction
Photograph from negative	Actual cost of the reproduction
Blueprints/oversized prints	Actual cost of the reproduction
Paper copies in color or in a size other than letter or legal	Actual cost of the reproduction
Certification fee	\$1.00/record

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by the requester.

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Payment Of Unemployment Contributions, Interest And Penalties
- 2) Code Citation: 56 Ill. Adm. Code 2765
- 3) Section Number: Emergency Action:
2765.72 New
- 4) Statutory Authority: 820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600
- 5) Effective Date of Rulemaking: February 11, 2013
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rulemaking is part of the SMART Act and has no earlier expiration date specified.
- 7) Date Filed with the Index Department: February 11, 2013
- 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: The Department does not expect the functionality for monthly wage reporting to be in place before mid-February and feels it should not require employers to file for January by February 28 if the functionality was not available for the full month of February.
- 10) Complete Description of the Subjects and Issues Involved: Specifically, this emergency amendment provides for a waiver of penalty when an employer that is required to file a monthly wage report for January of 2013 either fails to do so or files the report late if the employer subsequently files its quarterly wage report for the first quarter of 2013 in a timely manner.
- 11) Are there any proposed rulemakings pending on this Part? Yes

<u>Section Number</u> :	<u>Proposed Action</u> :	<u>Illinois Register Citation</u> :
2765.62	New Section	36 Ill. Reg. 18072; December 28, 2012
- 12) Statement of Statewide Policy Objective? This emergency amendment provides a waiver of penalty for certain large units of local government that are required to file monthly wage

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NOTICE OF EMERGENCY AMENDMENT

reports beginning with the report for January, 2013.

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

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street – Room 937
Chicago, IL 60603

312/793-4240
Fax: 312/793-5645
e-mail: Gregory.Ramel@illinois.gov

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENT

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS

PART 2765

PAYMENT OF UNEMPLOYMENT CONTRIBUTIONS, INTEREST AND PENALTIES

SUBPART A: GENERAL PROVISIONS

Section

2765.1	Unemployment Contributions Not Deductible From Wages
2765.5	Definitions
2765.10	Payment Of Contributions
2765.11	Employers Who Employ Household Workers and Pay Contributions on an Annual Basis
2765.15	Liability For The Entire Year
2765.18	Liability Of A Third Party Purchaser Or Transferee For The Due And Unpaid Contributions, Interest And Penalties Of The Seller Or Transferor's Seller or Transferor
2765.20	Contributions Of Employer Employers By Election
2765.25	Payments In Lieu Of Contributions
2765.30	When Payments In Lieu Of Contributions Payable
2765.35	Payments When Reimbursable Employer Becomes Contributory
2765.40	Payments When Contributory Employer Becomes Reimbursable
2765.44	Fee For Not Sufficient Funds (NSF) Checks
2765.45	Application Of Payment
2765.50	Accrual Of Interest
2765.55	Imposition Of Penalty
2765.56	Imposition of Late Reporting Penalty for Employers Who Employ Household Workers and Elect to File Reports on an Annual Basis
2765.60	Payment Or Filing By Mail
2765.61	Waiver of Interest and Penalty for Employers Who Employ Household Workers and Who File Reports and Pay Contributions on an Annual Basis (Repealed)
2765.63	When Payment Due And Consequences Of Upward Revision In Employer's Contribution Rate
2765.64	Consequences Where An Employee Leasing Company Has Erroneously Reported Wages And Paid Contributions Which Wages Should Have Been Reported And Contributions Paid By Its Client
2765.65	Waiver Of Interest Or Penalty

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- 2765.66 Waiver Of Interest Accruing Because Of Certain Types Of Employees For Periods Prior To January 1, 1988
- 2765.67 Partial Waiver Of Interest Where An Employer Has Erroneously Reported Wages To The Wrong State
- 2765.68 Waiver Of Penalty For Certain Employers For 1987 And Thereafter Wage Reports
- 2765.69 Partial Waiver Of Interest Where An Employer Has Erroneously Paid Its Federal Unemployment Tax Act (FUTA) Tax In Full But Has Failed To Pay Its Illinois Unemployment Insurance Contributions
- 2765.70 Waiver Of Interest For Certain Nonprofit Organizations or Local Governmental Entities
- 2765.71 Waiver ~~Of~~ Interest Accruing Due To A Delay In The Issuance Of A Decision On A Protested Determination And Assessment
- [2765.72](#) [Conditional Waiver of Penalty for Failing to File a Monthly Wage Report for January, 2013](#)
- [EMERGENCY](#)
- 2765.73 Waiver Of Interest For Certain Nonprofit Hospitals
- 2765.74 Time For Paying Or Filing Delayed Payment Or Report
- 2765.75 Application for Waiver
- 2765.80 Approval Of Application For Waiver
- 2765.85 Insufficient Or Incomplete Application
- 2765.90 Disapproval Of Application Conclusive
- 2765.95 Appeal And Hearing

SUBPART B: EXPERIENCE RATING

- Section
- 2765.200 Effect Of A Successor Employing Unit's Failure To Notify The Director Of Its Succession
- 2765.210 Prohibition On Withdrawal Of Joint Application For Partial Transfer Of Experience Rating Record
- 2765.220 Determination Of Benefit Wage And Benefit Ratio
- 2765.225 Requirement For Privity In Order To Have A Predecessor Successor Relationship
- 2765.228 No Requirement For Continuous Operation In Order For A Predecessor Successor Relationship To Exist
- 2765.230 Effect Of A Transfer Of Physical Assets On A Finding That A Predecessor Successor Relationship Exists

SUBPART C: BENEFIT CHARGES

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NOTICE OF EMERGENCY AMENDMENT

Section

- 2765.325 Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act
- 2765.326 Requirement For A Separation Or A Reduction In The Work Offered In Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act
- 2765.328 What Constitutes A Day For Purposes Of The "30 Day" Requirement In Section 1502.1 Of The Act
- 2765.329 Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act For Benefit Years Beginning On Or After January 1, 1993
- 2765.330 Chargeability Where The Individual Is Discharged As A Result Of His Incarceration
- 2765.332 Effect Of Ineligibility Under Section 602(B) On Chargeability Under Section 1502.1 Of The Act
- 2765.333 Effect Of Ineligibility Under Section 612 On Chargeability Under Section 1502.1 Of The Act
- 2765.334 Effect Of Ineligibility Under Section 614 On Chargeability Under Section 1502.1 Of The Act
- 2765.335 Procedural Requirements And Right Of Appeal

AUTHORITY: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600 of the Unemployment Insurance Act [820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600].

SOURCE: Adopted at 6 Ill. Reg. 3863, effective March 31, 1982; amended at 7 Ill. Reg. 13266, effective September 28, 1983; recodified at 8 Ill. Reg. 15027; amended at 11 Ill. Reg. 3972, effective February 23, 1987; amended at 11 Ill. Reg. 11743, effective June 26, 1987; amended at 11 Ill. Reg. 12882, effective July 22, 1987; emergency amendment at 12 Ill. Reg. 225, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11740, effective July 5, 1988; amended at 12 Ill. Reg. 17342, effective October 12, 1988; amended at 12 Ill. Reg. 20484, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 11911, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17410, effective October 30, 1989; amended at 14 Ill. Reg. 6218, effective April 16, 1990; amended at 14 Ill. Reg. 19886, effective November 29, 1990; amended at 15 Ill. Reg. 185, effective December 28, 1990; amended at 15 Ill. Reg. 11122, effective July 19, 1991; amended at 16 Ill. Reg. 2131, effective January 27, 1992; amended at 16 Ill. Reg. 12165, effective July 20, 1992; amended at 17 Ill. Reg. 308, effective December 28, 1992; amended at 17 Ill. Reg. 614,

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENT

effective January 4, 1993; amended at 17 Ill. Reg. 10275, effective June 29, 1993; emergency amendment at 17 Ill. Reg. 13801, effective August 20, 1993, for a maximum of 150 days; emergency expired January 1, 1994; amended at 18 Ill. Reg. 14952, effective September 27, 1994; emergency amendment at 19 Ill. Reg. 16113, effective November 13, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4307, effective February 29, 1996; amended at 25 Ill. Reg. 2011, effective January 18, 2001; emergency amendment at 29 Ill. Reg. 6788, effective April 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 13988, effective September 1, 2005; amended at 33 Ill. Reg. 9658, effective July 1, 2009; emergency amendment at 36 Ill. Reg. 18968, effective December 17, 2012 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2506, effective February 11, 2013 through June 30, 2013.

SUBPART A: GENERAL PROVISIONS

Section 2765.72 Conditional Waiver of Penalty for Failing to File a Monthly Wage Report for January, 2013
EMERGENCY

- a) Subject to subsection (b), the penalties set forth in Section 1402 of the Act shall be conditionally waived for an employer that failed to file or filed late its monthly wage report for January of 2013.
- b) The Director shall waive a penalty that has been conditionally waived pursuant to subsection (a), if the employer timely submits the report required pursuant to paragraph (1) of subsection (a) of Section 2760.125 for March of 2013 in compliance with Section 2760.140. It is not necessary for the employer to apply for a waiver pursuant to this subsection.

(Source: Added by emergency rulemaking at 37 Ill. Reg. 2506, effective February 11, 2013 through June 30, 2013)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Asbestos Abatement for Public and Private Schools and Commercial and Public Buildings in Illinois
- 2) Code Citation: 77 Ill. Adm. Code 855
- 3) The Notice of Withdrawal being corrected appeared at: 37 Ill. Reg. 2375; February 15, 2013
- 4) The information being corrected is as follows: The Notice did not contain all of the Sections that are being withdrawn. The missing Sections are as follows:

<u>Section Numbers:</u>	<u>Proposed Action:</u>
855.350	Repeal
855.360	Amend
855.370	Amend
855.380	Amend
855.390	Amend
855.400	Amend
855.410	Amend
855.420	Amend
855.425	Amend
855.430	Amend
855.440	Amend
855.450	Amend
855.460	Amend
855.465	Amend
855.470	Amend
855.475	Amend
855.480	Amend
855.490	Repeal
855.500	Amend
855.510	Repeal
855.520	Amend
855.600	Amend
855.610	Amend
855.620	Amend
855.630	Amend
855.640	Amend
855.APPENDIX A.ILLUSTRATION A	Amend

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF CORRECTION TO NOTICE ONLY

855.APPENDIX B.ILLUSTRATION H	Amend
855.APPENDIX B.ILLUSTRATION J	New
855.APPENDIX C.ILLUSTRATION A	New

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

CENTRAL MANAGEMENT SERVICES

Heading of the Part: Organ Donor Leave

Code Citation: 80 Ill. Adm. Code 332

Section Numbers: 332.4

Date Originally Published in the Illinois Register: 12/7/12
36 Ill. Reg. 16800

At its meeting on 2/6/13, the Joint Committee on Administrative Rules objected to the above-cited rulemaking because the Department lacks statutory authority to grant leaves for donating red blood cells. Section 20 of the Organ Donor Leave Act [5 ILCS 327] sets policy for donation of blood and platelets, but not a different policy for red blood cell donations.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. 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 PROPOSED RULEMAKING

DEPARTMENT OF HUMAN SERVICES

Heading of the Part: Maternal and Child Health Advisory Board

Code Citation: 77 Ill. Adm. Code 2260

Section Numbers: 2260.10 2260.30 2260.50 2260.70
2260.20 2260.40 2260.60 2260.80

Date Originally Published in the Illinois Register: 10/26/12
36 Ill. Reg. 15319

At its meeting on 2/6/13, the Joint Committee on Administrative Rules objected to DHS' rules titled Maternal and Child Health Advisory Board (77 Ill. Adm. Code 2260; 36 Ill. Reg. 15319) because of DHS' failure to adhere to the statutory requirement that it adopt these rules by 8/2/06.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. 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 PROPOSED RULEMAKING

DEPARTMENT OF HUMAN SERVICES

Heading of the Part: Lekoteks (Repealer)

Code Citation: 89 Ill. Adm. Code 899

Section Numbers: 899.10 899.20 899.30 899.40

Date Originally Published in the Illinois Register: 7/27/12
36 Ill. Reg. 11888

At its meeting on 2/6/13, the Joint Committee on Administrative Rules objected to DHS' proposed repeal of its rules titled "Lekoteks" (89 Ill. Adm. Code 899; 36 Ill. Reg. 11888) because Section 3c of the Disabled Persons Rehabilitation Act [20 ILCS 2405] continues to require DHS to administer the Lekotek program.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. 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 EMERGENCY RULE

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

Heading of the Part: Medical Payment

Code Citation: 89 Ill. Adm. Code 140

Section Numbers: 140.462

Date Originally Published in the Illinois Register: 1/4/13
37 Ill. Reg. 253

At its meeting on February 6, 2013, the Joint Committee on Administrative Rules objected to the Department of Healthcare and Family Services establishing an effective date for its emergency rule titled Medical Payment (89 Ill. Adm. Code 140; 37 Ill. Reg. 253 - 1/4/13) that was outside the 9 day window allowed by Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100], which states that an emergency rule can become effective immediately upon filing or on a stated date less than 10 days thereafter. HFS filed this emergency rule with the Secretary of State more than 9 days prior to its effective date.

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 EMERGENCY RULE

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

Heading of the Part: Medical Assistance Programs

Code Citation: 89 Ill. Adm. Code 120

Section Numbers: 120.80(a)

Date Originally Published in the Illinois Register: 7/13/12
36 Ill. Reg. 10253

At its meeting on August 14, 2012, the Joint Committee on Administrative Rules objected to the Department of Healthcare and Family Services' emergency rule titled Medical Assistance Programs (89 Ill. Adm. Code 120; 36 Ill. Reg. 10253) because it allows HFS to determine outside of rule the approved provider types that may participate in the Department's Recipient Restriction Program. Although PA 97-689 authorizes HFS to determine approved provider types, it does not override the IAPA's requirement that all agency policy be created in rule.

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.

CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD

NOTICE OF PUBLIC INFORMATION

NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

1. Statutory Authority: Section 50-37 of the Illinois Procurement Code [30 ILCS 500/50-37] prohibits business entities with contracts and solicitations worth in excess of \$50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the Illinois Register.
2. Name of Contributor: David Henebry, an affiliated person of LZT Associates, Inc.
3. Date of Violation: October 21, 2010
4. Description of Violation: Mr. David Henebry, an affiliated person of the business entity LZT Associates, Inc., made a contribution of \$250.00 to Brady for Senate, Inc., a campaign committee established to support the election of Bill Brady for public office. At the time of the contribution, Bill Brady was a declared candidate for the office of governor, and LZT Associates, Inc. had a contract and pending proposal with the Capital Development Board, the total annual value of which was in excess of \$50,000.
5. Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violates the campaign contribution prohibition are voidable at the discretion of the chief procurement officer. The Chief Procurement Officer for the Capital Development Board (CPO-CDB) has notified LZT Associate, Inc. of the apparent violation, reviewed responsive material provided by LZT Associates, Inc. and has considered the value, status, and necessity of the contracts. In addition, the CPO-CDB has taken into consideration the recognition by LZT Associates, Inc. of the violation and their understanding of the necessity to avoid such situations in the future. The CPO-CDB finds that voiding affected contracts, bids or proposals would not be in the best interest of the State.

As required by Section 50-37(e) of the Procurement Code, Brady for Senate, Inc., is required to pay to the State an amount equal to the value of the contribution within 30 days of the publication of this notice.

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 February 5, 2013 through February 11, 2013 and have been scheduled for review by the Committee at its March 12, 2013 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
3/21/13	<u>Department of Central Management Services, State of Illinois Dependent Care Assistance Plan (80 Ill. Adm. Code 2110)</u>	12/21/12 36 Ill. Reg. 17640	3/12/13
3/21/13	<u>Department of Central Management Services, State of Illinois Medical Care Assistance Plan (80 Ill. Adm. Code 2120)</u>	12/21/12 36 Ill. Reg. 17646	3/12/13
3/21/13	<u>Department of Central Management Services, Commuter Savings Program (80 Ill. Adm. Code 2190)</u>	12/21/12 36 Ill. Reg. 17658	3/12/13
3/22/13	<u>Environmental Protection Agency, Permit Fees for National Pollutant Discharge Elimination System Permits and Domestic Sewage Sludge Generator or Sludge User Permits (35 Ill. Adm. Code 325; 36 Ill. Reg. 17297)</u>	12/14/12 36 Ill. Reg. 17297	3/12/13
3/22/13	<u>Office of the Auditor General, Purchases and Contracts (44 Ill. Adm. Code 500)</u>	12/21/12 36 Ill. Reg. 17694	3/12/13
3/23/13	<u>Department of Central Management Services, The Travel Regulation Council (80 Ill. Adm. Code 3000)</u>	12/21/12 36 Ill. Reg. 17663	3/12/13

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: State Universities Civil Service System
- 2) Code Citation: 80 Ill. Adm. Code 250
- 3) Section Number: Proposed Action:
250.30 Withdrawal
- 4) Date Notice of Proposed Amendment Published in the *Illinois Register*: March 9, 2012;
36 Ill. Reg. 3840
- 5) Reason for the Withdrawal: The University Civil Service Merit Board voted on January
30, 2013 to withdraw the proposed amendment.

EXECUTIVE ORDER

2013-2

EXECUTIVE ORDER APPLYING RELEVANT MILITARY EDUCATION AND TRAINING OBTAINED BY ILLINOIS SERVICE MEMBERS TO PROFESSIONAL LICENSING STANDARDS

WHEREAS, the veterans' unemployment rate in Illinois runs consistently higher than the national average, and the unemployment rate for female veterans in Illinois in the 18 to 24 year-old age range is twice that of non-veteran women in the same age range; and

WHEREAS, approximately 35,000 Illinois service members will leave the military between now and 2016, returning to civilian life to face a difficult transition in a recovering economy; and

WHEREAS, Public Act 097-0710, the Expedited Licensure for Service Members and Spouses Act (the "Act") requires that "all relevant training provided by the military and completed by a service member shall be credited to that service member as meeting any training or education requirement under any applicable occupational or professional licensing Act, provided that the training or education is determined . . . to be substantially equivalent to that required under any applicable Act and is not otherwise contrary to any other licensure requirement"; and

WHEREAS, as the Act recognizes, training and education acquired during military service may be relevant to requirements for professional and occupational licensure, but, to date, there has not been a process or mechanism that would allow such training and education to be considered for purposes of state licensure requirements; and

WHEREAS, further review and clarification of gaps between, on the one hand, military training and education, and, on the other hand, requirements for state professional and occupational licensure to which such training and education may be relevant, will allow educational institutions throughout Illinois to design programs that will enable service members to bridge such gaps;

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, pursuant to the supreme executive authority vested in me by Article V of the Illinois Constitution, do hereby order as follows:

I. Definitions

- a) "State licensing agency" means any department of the state that issues occupational or professional licenses.
- b) "Service member" means any person who, at the time of application for licensure to any state licensing agency, is an active duty member of the United States Armed Forces or any reserve component of the United States Armed Forces or the National Guard of any state, commonwealth, or territory of the United States or the District of Columbia, and shall also include any veteran whose active duty service concluded within the preceding two years before submitting his or her application for licensure.

EXECUTIVE ORDER

II. Creation

There is hereby established an assessment process for applying military training and education to state licensure requirements in the State of Illinois.

III. Purpose

It is the intent of this Order to establish a statewide mechanism and process for determining how training and education acquired by service members during service in the military may be applied towards requirements for state licensure in certain civilian fields when they transition back into our communities as veterans. As set forth herein, all state licensing agencies are directed to assist in identifying gaps between, on the one hand, military education and training that is potentially relevant to a civilian field for which licensure is required, and, on the other hand, state licensure requirements in that field. Identifying such gaps will enable educational institutions to design programs (for subsequent approval by the relevant state licensing agency), through which service members may obtain any additional training and education necessary to obtain state licensure in the relevant field.

IV. Duties

- a) In addition to the state licensing agencies, the Illinois Department of Veterans' Affairs ("DVA"), the Illinois Department of Military Affairs ("DMA"), and the Illinois Department of Employment Security ("IDES") are directed to participate in implementing this Order. The Director of DVA shall be responsible for coordinating efforts to implement this Order.
- b) Within 90 days of the effective date of this Order, DVA, DMA, IDES and all state licensing agencies shall collaborate to compile a list of professional and occupational fields requiring state licensure whose requirements for licensure may overlap with training and education acquired by service members during military service. To the extent possible, the list shall include information relevant to bridging the gap between military training and education relevant to each listed field and state licensure requirements relevant to that field, including but not limited to: the extent to which service members are likely to have obtained education and training in the military that is relevant to the listed field; statewide demand for professional or occupational services in the listed field; and the availability of resources to bridge gaps between relevant military training and education and state licensure in the listed field.
- c) Additionally, within 90 days of obtaining or receiving information detailing military training or education potentially relevant to a given career field from the Director of DVA or either directly or indirectly from the U.S. Department of Defense, any branch of the U.S. Armed Forces, and/or DMA, the relevant state licensing agency shall either: (i) independently identify any gaps between the military training and education identified as potentially relevant to the field and the Illinois state licensing requirements for that career field; (ii) submit

EXECUTIVE ORDER

documentation to the relevant governing board to identify any such gaps; or (iii) identify the specific need for additional information required in order to make a final determination as to any such gaps.

- d) Finally, within 30 days of its determination with regard to the gap between military training and education relevant to a given career field and the requirements for licensure in that field, the relevant state licensing agency shall submit to the Director of DVA information detailing any additional training that must be completed by a service member in order to bridge the gap to obtain a state license. Such information shall be posted on DVA's website in order to aid educational institutions in building and obtaining approval for gap-bridging programs, as well as to aid service members in identifying outstanding requirements for licensure in that field.

V. Savings Clause

Nothing in this Executive Order shall be construed to contravene any state or federal law.

VI. Severability

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

VII. Effective Date

This Executive Order shall take effect immediately upon filing with the Secretary of State.

Issued by the Governor: February 6, 2013

Filed with the Secretary of State: February 6, 2013

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 37, Issue 8 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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