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October 17, 2014 Volume 38, Issue 42

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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 2014

Issue#	Rules Due Date	Date of Issue
1	December 23, 2013	January 3, 2014
2	December 30, 2013	January 10, 2013
3	January 6, 2014	January 17, 2014
4	January 13, 2014	January 24, 2014
5	January 21, 2014	January 31, 2014
6	January 27, 2014	February 7, 2014
7	February 3, 2014	February 14, 2014
8	February 10, 2014	February 21, 2014
9	February 18, 2014	February 28, 2014
10	February 24, 2014	March 7, 2014
11	March 3, 2014	March 14, 2014
12	March 10, 2014	March 21, 2014
13	March 17, 2014	March 28, 2014
14	March 24, 2014	April 4, 2014
15	March 31, 2014	April 11, 2014
16	April 7, 2014	April 18, 2014
17	April 14, 2014	April 25, 2014
18	April 21, 2014	May 2, 2014

19	April 28, 2014	May 9, 2014
20	May 5, 2014	May 16, 2014
21	May 12, 2014	May 23, 2014
22	May 19, 2014	May 30, 2014
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30	July 14, 2014	July 25, 2014
31	July 21, 2014	August 1, 2014
32	July 28, 2014	August 8, 2014
33	August 4, 2014	August 15, 2014
34	August 11, 2014	August 22, 2014
35	August 18, 2014	August 29, 2014
36	August 25, 2014	September 5, 2014
37	September 2, 2014	September 12, 2014
38	September 8, 2014	September 19, 2014
39	September 15, 2014	September 26, 2014
40	September 22, 2014	October 3, 2014
41	September 29, 2014	October 10, 2014
42	October 6, 2014	October 17, 2014
43	October 14, 2014	October 24, 2014
44	October 20, 2014	October 31, 2014
45	October 27, 2014	November 7, 2014
46	November 3, 2014	November 14, 2014
47	November 10, 2014	November 21, 2014
48	November 17, 2014	December 1, 2014
49	November 24, 2014	December 5, 2014
50	December 1, 2014	December 12, 2014
51	December 8, 2014	December 19, 2014
52	December 15, 2014	December 26, 2014

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 15, 2014 until January 2, 2015.

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3) Section Number: 1800.1610 Proposed Action:
New Section
- 4) Statutory Authority: Authorized by Section 78 (a)(3) and (b) of the Video Gaming Act [230 ILCS 40]
- 5) A Complete Description of the Subjects and Issues Involved: PA 98-31 (Senate Bill 1738, effective June 24, 2013), authorized the vendor of the Central Communications System (CCS) to be licensed as a manufacturer or distributor. This authorization has made possible the acquisition by the current CCS vendor, Scientific Games Corp., of two previously licensed manufacturers and distributors-WMS Gaming Inc. and Bally Gaming Inc.

To ensure that manufacturers and distributors owned by the CCS vendor did not gain an unfair competitive advantage, PA 98-31 inserted the following new language into Section 15 of the Video Gaming Act:

The Board shall not permit the development of information or the use by any licensee of gaming device or individual game performance data. Nothing in this Act shall inhibit or prohibit the Board from the use of gaming device or individual game performance data in its regulatory duties. The Board shall adopt rules to ensure that all licensees are treated and all licensees act in a non-discriminatory manner and develop processes and penalties to enforce those rules.

A question arising under this statutory language is whether the prohibition against the sharing of gaming device and game performance data applies to *internal data* acquired by a licensee. Although such an interpretation arguably conforms with the literal statutory language, prohibiting a licensee from developing or using information that it acquires about its own operations appears a far-fetched, indeed absurd, result. The statutory language quoted above is manifestly intended to prevent manufacturers and distributors owned by the CCS vendor to obtain proprietary data developed by their *competitors*, and thereby acquire an unfair advantage in the marketplace.

As stated by the Illinois Supreme Court in the recent case of *People v. Hunter*, 986 N.E. 2d 1185, 1189, 369 Ill. Dec. 549, 553 (2013):

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The primary objective in construing a statute is to ascertain and give effect to the intent of the legislature. The most reliable indicator of legislative intent is the language of the statute given its plain and ordinary meaning. A court must view the statute as a whole, construing words and phrases in light of other relevant statutory provisions and not in isolation. Each word, clause, and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous. *The court may consider the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another. Also, a court presumes that the legislature did not intend to create absurd, inconvenient or unjust results.* [Italics added.]

Similarly, the First District Appellate Court in *Austin Bank of Chicago v. Barrington Hills*, 396 Ill. App. 3d 1, 8-9 (1st Dist 2009) cautioned that:

[R]eviewing courts should guard against a statutory interpretation that conflicts with the spirit of a statute. Where "a literal interpretation of a particular clause would defeat the [legislature's] obvious intent, it does not control." [Citations.]

Illinois courts have recognized that an agency's construction of a statute which it administers is entitled to substantial weight and deference, "...[stemming] from the fact that agencies make informed judgments on the issues based upon their experience and expertise and are also an informed source for ascertaining the legislature's intent." *Metropolitan Water Reclamation District of Greater Chicago v. Illinois Department of Revenue*, 313 Ill. App. 3d 469, 474-75 (1st Dist. 2000).

Based on its experience and expertise in regulating the CCS vendor and licensed manufacturers and distributors, as well as its careful reading of the statutory language, the Board's legal staff concludes that the provisions of PA 98-31 were never intended to restrict the use or analysis by licensees of their internal data. Accordingly, the Illinois Gaming Board has filed a clarifying rulemaking to make this point explicit and eliminate any uncertainties in statutory interpretation.

- 6) Published studies and reports, and underlying sources of data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1800.220	Amendment	38 Ill. Reg. 18828; September 19, 2014
1800.320	Amendment	38 Ill. Reg. 18828; September 19, 2014

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under 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
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago IL 60601

312/814-7137
fax: 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: None
- 14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda.

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

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

Section	
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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

1800.730	Appointment of Administrative Law Judge
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
1800.1065	Registration of Video Gaming Terminals
1800.1070	Disposal of Video Gaming Terminals

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

SUBPART K: STATE-LOCAL RELATIONS

Section
1800.1110 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

Section
1800.1210 Definitions
1800.1220 Entities Authorized to Perform Fingerprinting
1800.1230 Qualification as a Livescan Vendor
1800.1240 Fingerprinting Requirements
1800.1250 Fees for Fingerprinting
1800.1260 Grounds for Revocation, Suspension and Denial of Contract

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
1800.1420 Redemption of Tickets Following Removal or Unavailability of Ticket Payout Devices

SUBPART O: NON-PAYMENT OF TAXES

Section
1800.1510 Non-Payment of Taxes

SUBPART P: CENTRAL COMMUNICATIONS SYSTEM

Section
1800.1610 Use of Gaming Device or Individual Game Performance Data

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

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. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. 4892, effective April 1, 2013; amended at 37 Ill. Reg. 7750, effective May 23, 2013; amended at 37 Ill. Reg. 18843, effective November 8, 2013; emergency amendment at 37 Ill. Reg. 19882, effective November 26, 2013, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3384, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5897; emergency repeal of emergency amendment at 38 Ill. Reg. 7337, effective March 12, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 849, effective December 27, 2013; amended at 38 Ill. Reg. 14275, effective June 30, 2014; amended at 38 Ill. Reg. 19919, effective October 2, 2014; amended at 39 Ill. Reg. _____, effective _____

SUBPART P: CENTRAL COMMUNICATIONS SYSTEMSection 1800.1610 Use of Gaming Device or Individual Game Performance Data

The Board shall not permit the development of information or the use by any licensee of gaming device or individual game performance data of another licensee. Nothing in the Act shall inhibit or prohibit the Board from the use of gaming device or individual game performance data in its regulatory duties. The Board shall adopt rules to ensure that all licensees are treated, and all licensees act, in a non-discriminatory manner and shall develop processes and penalties to enforce those rules. (Section 15 of the Act) This Section is intended as a clarification of existing law.

(Source: Added at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Illinois Credit Union Act
- 2) Code Citation: 38 Ill. Adm. Code 190
- 3) Section Number: 190.25 Adopted Action:
New Section
- 4) Statutory Authority: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305]
- 5) Effective Date of Rule: October 17, 2014
- 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 rule, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 13122; June 27, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

Section 190.25, following "resolved." add a new third sentence that reads "The scope of the guidelines shall include, but are not limited to: protocol in identifying and addressing examination findings; preparation of examination reports; delivery of examination reports; and procedures for enforcement actions and determining compliance with enforcement actions."

Section 190.25 (a)(1), following "shall" add "mail or email a pre-examination memorandum" and delete "make a reasonable effort to provide prior and written notification". On the third line, following "union" add "giving notification". Also, on the fourth line, following "information" add "the Department" and delete "it".
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Under the Illinois Credit Union Act, Section 9, PA 98-784 is designed to permit the adoption of regulator standards that address industry concerns and to further ensure consistency and due process in the examination process for IDFPR-DFI field examiners and their supervisory staff. The requirements found in new Section 190.25 were developed to provide guidance, to enhance clarity and to establish examination procedures that will be relied upon by credit unions and IDFPR-DFI management, examiners and administrative personnel.
- 16) Information and questions regarding this adopted rule shall be directed to:

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 190

ILLINOIS CREDIT UNION ACT

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: HIGH RISK HOME LOANS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

Section

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

SUBPART C: PAYDAY LOANS

Section

190.600	Definitions
190.601	Purpose and Scope
190.605	Applicability of Rule
190.610	Issuance of Payday Loans by Credit Unions

190.APPENDIX A Estimated Monthly Income and Expenses Worksheet

190.APPENDIX B Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305].

SOURCE: Adopted at 4 Ill. Reg. 20, p. 17, effective May 7, 1980; amended at 6 Ill. Reg. 11154, effective September 7, 1982; amended and codified at 7 Ill. Reg. 14973, effective October 26, 1983; emergency amendment at 9 Ill. Reg. 14378, effective September 11, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 16231, effective October 10, 1985; amended at 10 Ill. Reg. 14667, effective August 27, 1986; amended at 12 Ill. Reg. 10464, effective June 7, 1988; amended at 12 Ill. Reg. 17383, effective October 24, 1988; amended at 13 Ill. Reg. 3793,

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

effective March 10, 1989; amended at 13 Ill. Reg. 15998, effective October 2, 1989; emergency amendment at 16 Ill. Reg. 12781, effective July 29, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17073, effective October 26, 1992; amended at 19 Ill. Reg. 2826, effective February 24, 1995; amended at 20 Ill. Reg. 5803, effective April 8, 1996; emergency amendment at 20 Ill. Reg. 13093, effective September 27, 1996, for a maximum of 150 days; emergency expired February 17, 1997; amended at 22 Ill. Reg. 17317, effective September 15, 1998; emergency amendment at 23 Ill. Reg. 3086, effective February 23, 1999, for a maximum of 150 days; emergency expired July 22, 1999; amended at 23 Ill. Reg. 12614, effective October 4, 1999; amended at 23 Ill. Reg. 14031, effective November 12, 1999; amended at 25 Ill. Reg. 6244, effective May 17, 2001; amended at 25 Ill. Reg. 13278, effective October 19, 2001; amended at 26 Ill. Reg. 17999, effective December 9, 2002; amended at 28 Ill. Reg. 11699, effective July 29, 2004; amended at 29 Ill. Reg. 10579, effective July 8, 2005; amended at 30 Ill. Reg. 18919, effective December 4, 2006; amended at 32 Ill. Reg. 1377, effective January 16, 2008; amended at 34 Ill. Reg. 10500, effective July 12, 2010; amended at 37 Ill. Reg. 12450, effective July 16, 2013; amended at 38 Ill. Reg. 19910, effective October 17, 2014.

SUBPART A: GENERAL PROVISIONS

Section 190.25 Regulatory Examination Consistency and Due Process

To ensure consistency and due process, the Department shall make every reasonable effort to adhere to the following standards of performance in conducting its regulatory examinations of credit unions. To supplement this Part, the Department may establish guidelines that define the scope of the examination process and clarify the manner in which examination items shall be resolved. The scope of the guidelines shall include, but are not limited to: protocol in identifying and addressing examination findings; preparation of examination reports; delivery of examination reports; and procedures for enforcement actions and determining compliance with enforcement actions. The guidelines furnished to credit unions by the Department may be relied upon by the credit unions. The Department reserves the right to change these guidelines. The Department will provide reasonable notice when any change to the guidelines occurs.

a) Reasonable Notification

- 1) Prior to commencement of the examination, the Department shall mail or email a pre-examination memorandum to management and the board of directors (Board) of the credit union giving notification of the commencement date of the examination and the information the Department deems necessary to conduct the examination. Prior notification is not required if the Department suspects criminal activity or

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

unsafe and unsound activity for which advance notice may compromise or otherwise interfere with the examination. Prior to and during the exam, the credit union shall provide timely information in response to requests by the Department for information.

- 2) During each stage of the examination, the Department shall make a reasonable effort to provide prior notification to management of the credit union of all joint conferences and the exit meeting. It shall be the responsibility of management to contact the Board and applicable committees of all joint conferences and the exit meeting.
- b) Communication Protocol in Identifying and Addressing Examination Findings – The Department shall take reasonable steps to work with the credit unions it supervises to proactively identify problems and solutions during the examination process.
- c) Delivery of Examination Reports
- 1) Definitions
 - A) An "exit meeting" is held when field work is completed and preliminary results are shared with management.
 - B) The "examination report meeting" with the Board and management customarily takes place after the exit meeting and is held with the Board and/or senior management. At the examination report meeting, any draft Document of Resolution (DOR) and any draft examiner's findings shall be presented to the Board and/or senior management.
 - C) The "final examination report" is delivered after the examination report meeting and is issued by the Department after the review examination process is finalized.
 - 2) Examiners shall provide management and the Board with the examiner's draft findings and any draft DOR, with sufficient time to review these items before the examination report meeting with the credit union's senior management and/or Board.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- 3) At the exit meeting and/or at the examination report meeting, each Board member shall be permitted to participate in the meeting to fulfill his or her fiduciary duties.
 - 4) The Department shall submit its final examination report to the credit union after the examination report meeting.
- d) Examination Due Process: Enforcement Action Procedures
- 1) Background. The Department, acting through the Division of Financial Institutions, Credit Union Section, may determine it is prudent to take an enforcement action against a credit union. The enforcement action may either be specified by the Act or not.
 - A) Enforcement actions not specified by the Act are DORs and Letters of Understanding and Agreement (LUAs). Violations of the terms of a DOR or LUA may be enforced through administrative actions specified by the Act.
 - i) A DOR is set forth in the Examination Report and outlines an identified problem and corrective action plan to resolve the problem. A problem included in a DOR shall be significant enough that the Department may escalate the matter to the next level of elevated enforcement action for failure to correct the problem. Problems requiring attention that may be addressed in a DOR include, without limitation, unsafe or unsound practices that reasonably threaten the stability of the credit union.
 - ii) An LUA is an enforcement action presented to a credit union by the Department to initiate corrective action of identified material deficiencies or weaknesses in the credit union's administration or operations. The LUA shall be structured as an agreement between the Department and the credit union, pursuant to which the credit union agrees to the terms specified in the LUA.
 - B) Other enforcement actions are Cease and Desist Orders, Orders of Removal and Civil Penalty Orders. These enforcement actions are

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specified by the Act and may be unilaterally imposed on the credit union by the Department, provided that a credit union may appeal such actions to the extent provided by the Act and this Part. The Department may take enforcement actions for, among other things, significant and material violations of laws or rules, unsafe and unsound practices, breach of fiduciary duty, violations of orders and failure to implement or comply with previous regulatory actions.

- 2) Progressive Steps of Review. In connection with any request for reconsideration of any examination finding and/or examination corrective action item, the following procedures shall apply:
 - A) Examiner Level – Credit union management officials shall be encouraged to directly resolve disagreements, complaints or issues with the Examiners on-site during the regulatory examination, including the Examiner in Charge (EIC), or directly with any Examiner who otherwise identifies a deficiency or issue during any examination, visitation, investigation or review of the credit union.
 - B) Supervisory Level – In the event the credit union and Examiner are unable to reach a mutually acceptable resolution of the issue, the credit union may discuss the issue with the Assistant Supervisor or Supervisor of the Credit Union Section.
 - C) Director Level – If the credit union and Supervisor or Assistant Supervisor are unable to resolve the issue, either party may ask the Division Director to rule on the dispute. The Director may agree to do so or decline to do so.
 - D) Department Internal Review Committee – Irrespective of whether the Director renders a decision on the issue, the Director may elect to request that an internal panel of Department personnel consider the issue and render a final regulatory recommendation to the credit union. The internal review committee shall consist of the Director or his or her designee, Supervisor, Assistant Supervisor, Problem Case Officer and an Examiner not involved in the examination. In cases in which there is a vacancy in a designated

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office, the committee comprised of the other designated incumbents shall proceed to review the matter.

- E) Nothing in this subsection (d)(2) shall be construed to impair or abrogate the right of a credit union to request a formal hearing under Section 190.20 to review the propriety of an administrative action or regulatory decision of the Department.

(Source: Added at 38 Ill. Reg. 19910, effective October 17, 2014)

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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>
1800.230	Amendment
1800.240	Amendment
1800.250	Amendment
1800.270	Amendment
- 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) Effective Date of Rule: October 2, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 12655; June 20, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreement letter has been issued.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1800.220	Amendment	38 Ill. Reg. 18828; September 19, 2014
1800.320	Amendment	38 Ill. Reg. 18828; September 19, 2014

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- 15) Summary and Purpose of Rulemaking: The rulemaking does the following:

Notification of revoked hardware and software: The rulemaking amends Section 1800.230 ("Duties of Licensed Manufacturers"), and Section 1800.240 ("Duties of Licensed Distributors"). Under the amendatory language, a licensed manufacturer or distributor has an ongoing duty to promptly notify all licensees under the Act with whom it does business if hardware or software used in the operation of its Video Gaming Terminals (VGTs) is revoked for any reason.

Monthly inventory reports from terminal operators: Section 1800.250 ("Duties of Licensed Video Terminal Operators") currently imposes upon terminal operators an ongoing duty to "provide the Board with a current list of video gaming terminals acquired for use in Illinois." Some terminal operators, however, are failing to provide the Board with the monthly inventory reports requested by Board agents. The purpose of the present amendment to this section is to require all terminal operators to provide these reports on a monthly basis.

Posting of 21 and older signage; notification of criminal activity: The rulemaking amends Section 1800.270 ("Duties of Licensed Video Gaming Locations"). The amendatory language requires locations to post signage indicating that play of a VGT is specifically limited to persons 21 years of age or older. The amendatory language also establishes a continuing duty on the part of location licensees to promptly report to the Administrator (or his or her designee), and to the terminal operator who placed VGTs at the location, information regarding break-ins to the location and other activities involving or affecting VGTs or redemption devices or their play, mechanism, or contents. It also performs minor clean-up of the arrangement of the rule language.

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

Emily Mattison
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago IL 60601

312/814-7137
fax: 312/814-7253

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

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NOTICE OF ADOPTED AMENDMENTS

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

Section	
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

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1800.730	Appointment of Administrative Law Judge
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
1800.1065	Registration of Video Gaming Terminals
1800.1070	Disposal of Video Gaming Terminals

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SUBPART K: STATE-LOCAL RELATIONS

Section

1800.1111 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

Section

1800.1210 Definitions

1800.1220 Entities Authorized to Perform Fingerprinting

1800.1230 Qualification as a Livescan Vendor

1800.1240 Fingerprinting Requirements

1800.1250 Fees for Fingerprinting

1800.1260 Grounds for Revocation, Suspension and Denial of Contract

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

1800.1420 Redemption of Tickets Following Removal or Unavailability of Ticket Payout Devices

SUBPART O: NON-PAYMENT OF TAXES

Section

1800.1510 Non-Payment of Taxes

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

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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. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. 4892, effective April 1, 2013; amended at 37 Ill. Reg. 7750, effective May 23, 2013; amended at 37 Ill. Reg. 18843, effective November 8, 2013; emergency amendment at 37 Ill. Reg. 19882, effective November 26, 2013, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3384, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5897; emergency repeal of emergency amendment at 38 Ill. Reg. 7337, effective March 12, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 849, effective December 27, 2013; amended at 38 Ill. Reg. 14275, effective June 30, 2014; amended at 38 Ill. Reg. 19919, effective October 2, 2014.

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 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

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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 Act and this Part or as required by the Board;
- 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; ~~and-~~
- i) Promptly notify all terminal operators with which the licensed manufacturer does business if the licensed manufacturer's hardware or software used in the operation of video gaming terminals is revoked under any circumstances.

(Source: Amended at 38 Ill. Reg. 19919, effective October 2, 2014)

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;
- c) Not own, manage or control a licensed establishment, licensed truck stop establishment, licensed fraternal establishment or licensed veterans establishment;
~~and~~
- d) Service, maintain or repair video gaming terminals at licensed video gaming locations only by licensed technicians or licensed terminal handlers; ~~and-~~

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- e) Promptly notify all terminal operators with which the licensed distributor does business if the licensed manufacturer's hardware or software used in the operation of that terminal operator's video gaming terminals is revoked under any circumstances.

(Source: Amended at 38 Ill. Reg. 19919, effective October 2, 2014)

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;

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- 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;
- 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 on a monthly basis with a current list of video gaming terminals acquired for use in Illinois;

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- r) Not install, remove or relocate any video gaming terminal without prior notification and approval of the Administrator or his designee;
- 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 38 Ill. Reg. 19919, effective October 2, 2014)

Section 1800.270 Duties of Licensed Video Gaming Locations

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

- a) Provide a secure premise for the placement, operation and play of video gaming terminals;
- b) Permit no one to tamper with or interfere with the approved operation of any video gaming terminal;
- c) Ensure that all connections with the central communications system and associated video gaming equipment are at all times maintained and prevent any person from tampering or interfering with the approved, continuing operation of the central communications system;
- d) Accept nothing of value from any video terminal operator or any agent or representative of any video terminal operator as an incentive or inducement to locate, keep or maintain video gaming terminals at the licensed video gaming location;
- e) 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;

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- f) 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;
- g) Enter written use agreements with licensed video terminal operators that comply with this Part;
- h) Ensure that video gaming terminals are placed and remain in a designated, approved location;
- i) Prevent access to or play of video gaming terminals by persons who are under the age of 21 years or who are visibly intoxicated;
- j) Commit no violations of the laws of this State concerning the sale, dispensing or consumption on premises of alcoholic beverages that results in suspension or revocation of any liquor license held by or associated with a licensed video gaming location;
- k) Maintain at all times an approved method of payout for valid receipt tickets and redeem for cash each~~pay all~~ valid receipt ticket dispensed by a video gaming terminal that is within its redemption period~~tickets~~;
- l) 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;
- m) Promptly report to the terminal operator:
- 1) all malfunctions of video gaming terminals and all out-of-service terminals; and
 - 2) any unlawful or unwarranted entry onto the property or into the licensed video gaming location involving or affecting play, mechanism or contents of video gaming terminals, redemption devices, or connected equipment;

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~~Promptly report all malfunctions of video gaming terminals and all out-of-service terminals to the video terminal operator and promptly notify the Board of a terminal operator's failure to provide service and repair of terminals and associated equipment within 24 hours after notice to the terminal operator;~~

- n) Promptly report to the Administrator (or his or her designee):
- 1) if a terminal operator fails to provide service and repair of video gaming terminals and associated equipment within 24 hours after notice to the terminal operator;
 - 2) any unauthorized or illegal video gaming terminals or any video gaming device that is in violation of Section 35 of the Video Gaming Act;
 - 3) any action taken on or related to any liquor license held by the licensed video gaming location; and
 - 4) any unlawful or unwarranted entry onto the property or into the licensed video gaming location involving or affecting play, mechanism or contents of video gaming terminals, redemption devices, or connected equipment;
- ~~o) Install, post and display signs as required by the Board, including signs indicating that video gaming terminal play is limited to persons 21 years of age or older;~~
- ~~o) Promptly notify the Board of any unauthorized or illegal video gaming terminals or any video gaming device that is in violation of Section 35 of the Video Gaming Act;~~
- p) Exercise control over the licensed video gaming location; and
- ~~q) Promptly notify the Board of any action taken on or related to any liquor license held;~~
- ~~q) Allow maintenance and/or service of video gaming terminals and associated video gaming equipment only by licensed technicians and licensed terminal handlers possessing valid identification issued by the Board; and~~
- ~~s) Redeem for cash a ticket, dispensed by a video gaming terminal, that is within its redemption period.~~

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(Source: Amended at 38 Ill. Reg. 19919, effective October 2, 2014)

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- 1) Heading of the Part: Request for Regulatory Action
- 2) Code Citation: 2 Ill. Adm. Code 961
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
961.10	Amendment
961.20	Amendment
961.30	Amendment
961.40	Amendment
961.50	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 5-145 of the Illinois Administrative Procedure Act [5 ILCS 100/5-145]
- 5) Effective Date of Rule: September 30, 2014
- 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 rule, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: As this is an internal rule pursuant to 1 Ill. Adm. Code 100.800, publication of a proposal is not required.
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: As this is an internal rule pursuant to 1 Ill. Adm. Code 100.800, publication of a proposal is not required.
- 12) Have all 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 an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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TITLE 2: GOVERNMENTAL ORGANIZATIONS
SUBTITLE D: CODE DEPARTMENTS
CHAPTER XI: DEPARTMENT OF INSURANCEPART 961
REQUEST FOR REGULATORY ACTION

Section	
961.10	Purpose
961.20	Definitions
961.30	Petitions Requesting Regulatory Action
961.40	Petition Consideration
961.50	Petition Disposition

AUTHORITY: Implementing and authorized by Section 5-145 of the Illinois Administrative Procedure Act [5 ILCS 100/5-145].

SOURCE: Adopted at 22 Ill. Reg. 14455, effective July 27, 1998; amended at 38 Ill. Reg. 19934, effective September 30, 2014.

Section 961.10 Purpose

The purpose of this Part is to set forth a procedure that will allow any interested or affected party to petition the Director of the [Illinois](#) Department of Insurance to initiate regulatory action.

(Source: Amended at 38 Ill. Reg. 19934, effective September 30, 2014)

Section 961.20 Definitions

"Department" means the Illinois Department of Insurance.

"Director" means the Director of the Illinois Department of Insurance.

"IAPA" means the [Illinois Administrative Procedure Act \[5 ILCS 100\]](#).

"Petitioner" means an individual, organization or other entity who petitions the Director to initiate regulatory action.

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"Regulatory action" means the adoption, amendment or repeal of an administrative regulation.

(Source: Amended at 38 Ill. Reg. 19934, effective September 30, 2014)

Section 961.30 Petitions Requesting Regulatory Action

Any interested or affected party may petition the Illinois Department of Insurance to promulgate, amend or repeal an administrative regulation pursuant to the provisions of this Part. ~~The Such~~ petition shall be submitted in writing to the Illinois Department of Insurance, Rules ~~Coordinator~~~~Unit Supervisor~~, 320 West Washington Street, Springfield, IL 62767-0001. This petition shall contain:

- a) The name, company and position title or designation of the petitioner along with a mailing address and telephone number for ~~the such~~ petitioner;
- b) Identification of the regulatory action being sought (i.e. adoption, amendment, or repeal);
- c) A brief statement as to the purpose for the requested regulatory proposal including any arguments supporting ~~the such~~ purpose;
- d) A brief statement of the conditions or circumstances indicating a need for regulation; ~~and-~~
- e) Proposed text for the rule or amendment suggested.

(Source: Amended at 38 Ill. Reg. 19934, effective September 30, 2014)

Section 961.40 Petition Consideration

- a) In making a determination regarding the petition, the Department will take into consideration such factors as the ~~proposal's~~~~proposal's~~ compliance with the statutory authority and legislative intent upon which it is based, whether the proposal meets the definition of a rule pursuant to Section 1-70 of the ~~IAPA~~~~Illinois Administrative Procedure Act [5 ILCS 100/1-70]~~, and if the proposal is enforceable.
- b) If after careful consideration, the Department elects to initiate rulemaking

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proceedings in accordance with Section 5-35 of the ~~ILPA~~[Illinois Administrative Procedures Act \[5 ILCS 100/5-35\]](#), the Department shall notify the petitioner in writing of its intentions.

(Source: Amended at 38 Ill. Reg. 19934, effective September 30, 2014)

Section 961.50 Petition Disposition

A petition is considered denied when the Department either notifies the petitioner of its denial or does not initiate rulemaking proceedings on the subject of the petition within 30 calendar days after the receipt of ~~the~~[such](#) request. However, the Department is not then precluded from later initiating rulemaking proceedings which are in accordance with the petition, in which case the Department may notify the petitioner for informational purposes that ~~such~~ action will be taken.

(Source: Amended at 38 Ill. Reg. 19934, effective September 30, 2014)

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- 1) Heading of the Part: License and Documents Necessary to Engage in Activities and Examinations
- 2) Code Citation: 50 Ill. Adm. Code 752
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
752.10	Amendment
752.30	Amendment
- 4) Statutory Authority: Implementing Article VII and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. VII and 401]
- 5) Effective Date of Rule: September 30, 2014
- 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 rule, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 7715; April 11, 2014
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: Deleted the comma after "LICENSE" and added "AND" in the title of the rule.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: PA 93-32 increased the fee for filing an application as an advisory organization to \$50. Prior to this statutory change, there was an application filing fee of \$25. Part 752 needs to be updated to reflect this increase of the application filing fee. Additionally, housekeeping changes are being made.

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

C.J. Metcalf
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/558-0853

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER i: ADVISORY ORGANIZATIONSPART 752
LICENSE ~~AND~~; DOCUMENTS NECESSARY TO ENGAGE IN
ACTIVITIES AND EXAMINATIONS

Section

752.10	License
752.20	Documents – Joint Underwriting and Joint Reinsurance
752.30	Submission of Application
752.40	Examinations

AUTHORITY: Implementing Article VIIA and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. VIIA (and 401)].

SOURCE: Filed September 9, 1975, effective September 30, 1975; codified at 6 Ill. Reg. 12454; amended at 38 Ill. Reg. 19939, effective September 30, 2014.

Section 752.10 License

- a) All advisory organizations conducting activities as defined in Article ~~VIIA-VII-A~~ and in the regulations issued to effect Article ~~VIIA-VII-A~~ must apply to and be licensed by the Department of Insurance ~~no later than December 31, 1972~~.
- b) Licenses issued to advisory organizations by the State of Illinois prior to October 1, 1972 ~~became~~ ~~become~~ null and void on January 1, 1973.
- c) Every application for a license must include:
 - 1) Copies certified by the custodian of the originals of the following:
 - A) Constitution;
 - B) The Articles of Incorporation;
 - C) Articles of Agreement;

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- D) Articles of Associations; and
- E) The by-laws, plan of operations, rules or regulations that~~which~~ govern eligibility for membership and the activities of members relative to their membership.
- 2) A list of members and subscribers.
- 3) The name and address of a resident of the state upon whom Notices or Orders of the Director or process may be served.
- 4) A list of the officers and principal managers.
- 5) A ~~\$5025.00~~ fee payable to the Illinois Director of Insurance.
- d) Notification of substantive changes in subsections (c)(1), (3) and (4)~~Item 1), 3), and 4)~~ above must be made within 60 days after~~of~~ the change. The list of members and subscribers should be submitted annually, but additions to~~addition~~ or deletions from~~to~~ the list should be submitted monthly.
- e) Licenses must be renewed annually prior to January 1st each year ~~beginning January 1, 1973,~~ but application for renewal need include only an update of existing documents~~document~~ and information previously submitted to the Department.

(Source: Amended at 38 Ill. Reg. 19939, effective September 30, 2014)

Section 752.30 Submission of Application

All applications, information documents, and fees required under Sections 752.10 and 752.20 ~~above~~ must be received by:

Illinois Department of Insurance
Property & Casualty Compliance Unit~~Rating and Policy Examination Division~~
320 West Washington St.
Springfield, Illinois 62767

(Source: Amended at 38 Ill. Reg. 19939, effective September 30, 2014)

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- 1) Heading of the Part: Administrative Hearing Procedures
- 2) Code Citation: 50 Ill. Adm. Code 2402
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
2402.30	Amendment
2402.40	Amendment
2402.70	Amendment
2402.90	Amendment
2402.170	Amendment
2402.180	Amendment
2402.240	Amendment
2402.270	Amendment
2402.295	Amendment
- 4) Statutory Authority: Implementing Sections 402 and 403 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401, 402 and 403]
- 5) Effective Date of Rule: September 30, 2014
- 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 rule, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 7731; April 11, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

At the end of the Authority note, added "Section 401 of the Illinois Administrative Procedure Act [5 ILCS 100/5-150]".

In 2402.70(b), after the period added "After December 31, 2014, an out-of-state attorney shall include with the motion an affidavit stating that, pursuant to Section 5-720 of the

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Civil Administrative Code of Illinois [20 ILCS 5/5-720], he or she is in compliance with Supreme Court Rule 707."

In the definition of "Hearing Officer", changed "officials" to "official".

In 2402.170(a) and (c), changed "may" back to "shall".

In 2402.170(e), 2nd line, corrected the spelling of "subsection".

- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department last amended this rule in 1979. It is being revised to bring it up to date.
- 16) Information and questions regarding this adopted rule shall be directed to:

Joe Clennon, Assistant General Counsel
Illinois Department of Insurance
320 West Washington St.
Springfield IL 62767-0001

217/557-1396
fax: 217/524-9033

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER dd: DIRECTOR OF INSURANCE, HEARINGS AND REVIEW

PART 2402

ADMINISTRATIVE HEARING PROCEDURES

Section

2402.10	Authority
2402.20	Applicability
2402.30	Definitions
2402.40	Filing
2402.50	Form of Documents
2402.60	Computation of Time
2402.70	Appearances
2402.80	Notice of Hearing
2402.90	Service of the Notice of Hearing
2402.100	Motion and Answer
2402.110	Consolidation and Severance of Matters – Additional Parties
2402.120	Intervention
2402.130	Postponement on Continuance of Hearing
2402.140	Authority of a Hearing Officer
2402.150	Bias or Disqualification of Hearing Officer
2402.160	Prehearing Conferences
2402.170	Discovery
2402.180	Subpoenas
2402.190	Conduct of the Hearing
2402.200	Default
2402.210	Evidence
2402.220	Official Notice
2402.230	Hostile Witnesses
2402.240	Transcription of Proceedings
2402.250	Briefs
2402.260	Hearing Officer's Findings, Opinions, and Recommendations
2402.270	Order of the Director
2402.280	Rehearings
2402.290	Ex Parte Contacts
2402.295	Cancellation/Non-Renewal Hearing
2402.300	Existing Statutory or Department Procedures and Practices

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AUTHORITY: Implementing Sections 402 and 403 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401, 402 and 403] and Section 5-150 of the Illinois Administrative Procedure Act [5 ILCS 100/5-150].

SOURCE: Filed December 21, 1973, effective January 1, 1974; amended at 3 Ill. Reg. 10, p. 65 effective March 9, 1979; codified at 7 Ill. Reg. 3477; amended at 38 Ill. Reg. 19943, effective September 30, 2014.

Section 2402.30 Definitions

"Department" ~~means:~~ ~~Means~~ the Department of Insurance ~~and the~~ staff and employees ~~of the Department~~ thereof.

"Director" means the Director of the Illinois Department of Insurance.

"Hearing" ~~means:~~ ~~Means~~ any hearing authorized by the Illinois Insurance Code.

"Hearing Officer" ~~means:~~ ~~Means~~ the presiding ~~official~~ official(s) designated by the Director to conduct a hearing.

"License" ~~means:~~ ~~Means~~ the whole or part of any Department permit, certificate, approval, registration, charter, membership, statutory exemption, or any other form of permission.

"Licensing" ~~means the:~~ ~~Means~~ Department process of granting, renewing, denying, revoking, suspending, annulling, withdrawing, limiting, amending, modifying respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license.

"Order" ~~means:~~ ~~Means~~ the whole or any part of the final decision of the Director in any hearing.

"Party" ~~means individuals:~~ ~~Means individual(s), partnership~~ individual(s), ~~partnership~~ partnership(s), ~~corporation~~ corporation(s), ~~association~~ association(s), or public or private ~~organization~~ organization(s) of any character or any other governmental agency properly seeking and entitled to intervene in any Department proceeding.

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(Source: Amended at 38 Ill. Reg. 19943, effective September 30, 2014)

Section 2402.40 Filing

- a) Documents and requests permitted or required to be filed with the Department in connection with a hearing shall be addressed to and mailed to or filed in person with the Department of Insurance, 320 W. Washington Street, Springfield IL, Illinois 62767, or 122 S. Michigan Ave., 19th Floor, Chicago IL 60603, in duplicate. The offices of the Department are open for filing, ~~and~~ inspection and copying of public documents from 8:30 ~~a.m.A.M.~~ to 5:00 ~~p.m.P.M.~~, Monday through Friday, except on National and State legal holidays.
- b) By agreement of the parties or by order of the hearing officer, filing of these documents may also be accomplished by email or facsimile to the office of the Department and opposing party (or opposing party's counsel). Any filings by email or facsimile must be received by the recipient no later than 5:00 p.m. on the date filing is due.

(Source: Amended at 38 Ill. Reg. 19943, effective September 30, 2014)

Section 2402.70 Appearances

- a) Any person entitled to participate in proceedings may appear as follows:
- 1) A natural person may appear ~~on~~ his or her own behalf or by an attorney at law licensed to practice in the State of Illinois, or both.
 - 2) A business, nonprofit, or government organization may appear by any bona fide officer, employee, or representative, or may be represented by an attorney licensed to practice in the State of Illinois, or both.
- b) Attorneys not licensed to practice in the State of Illinois may appear on motion. After December 31, 2014, an out-of-state attorney shall include with the motion an affidavit stating that, pursuant to Section 5.720 of the Civil Administrative Code of Illinois [20 ILCS 5/5-720], he or she is in compliance with Supreme Court Rule 707.
- c) An attorney appearing in a representative capacity shall file a written notice of appearance.

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(Source: Amended at 38 Ill. Reg. 19943, effective September 30, 2014)

Section 2402.90 Service of the Notice of Hearing

Service shall be complete when the Notice of Hearing is served in person or deposited in the United States mail, postage prepaid, registered or certified, addressed to the last known address of the ~~persons~~ person(s), ~~partnerships~~ partnership(s), ~~associations~~ association(s), or ~~companies~~ company(ies) involved, not less than 10 days before the date designated for the Hearing.

(Source: Amended at 38 Ill. Reg. 19943, effective September 30, 2014)

Section 2402.170 Discovery

- a) The following discovery procedures shall be ordered by the Hearing Officer upon the written request of any party ~~when~~ where necessary to expedite the proceedings, to ensure a clear or concise record, to ensure a fair opportunity to prepare for the hearing, or to avoid surprise at the hearing:
 - 1) production of documents or things;
 - 2) depositions;
 - 3) interrogatories.
- b) The Hearing Officer may restrict ~~such~~ discovery ~~when~~ where necessary to prevent undue delay or harassment.
- c) The Hearing Officer shall order the following discovery upon written request of any party:
 - 1) list of persons who may have knowledge of facts concerning the subjects of inquiry at the hearing;~~;~~
 - 2) reasonable inspection of books, records, and documents by experts.
- d) Any person, including a party, who is deposed, interrogated or required to submit documents or things under this Section ~~these Rules~~ may be examined regarding

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any matter, not privileged, ~~that which~~ is relevant to the subject matter of the hearing, or ~~that which~~ may lead to the discovery of ~~such~~ relevant information.

- e) All depositions and interrogatories taken pursuant to this ~~Section~~Rule shall be for purpose of discovery only, except as ~~herein~~ provided in this subsection. ~~The~~~~Such~~ depositions and interrogatories may be used for purpose of impeachment and as admissions of the deposed or interrogated party. Upon application to the Hearing Officer either before or after the taking of ~~the~~~~such~~ deposition or interrogatories, and upon a showing that, at the time of the hearing, the party deposed or interrogated will not be available to participate in the hearing because of death, age, sickness, infirmity, absence from the country or other exceptional circumstances, the Hearing Officer may order that the deposition or interrogatories be used as evidence in the hearing.

(Source: Amended at 38 Ill. Reg. 19943, effective September 30, 2014)

Section 2402.180 Subpoenas

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

(Source: Amended at 38 Ill. Reg. 19943, effective September 30, 2014)

Section 2402.240 Transcription of Proceedings

- a) Oral proceeding at which evidence is presented shall be recorded either by a certified court reporter or a mechanical recording device, but need not be

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transcribed unless requested by a party, who shall pay for the transcription of the portion requested, except as otherwise provided by the Department or by law. Any transcription will be retained through and including the time allotted for appeal, revision, rehearing or other manner of review prior to final deposition as provided for by the Department or by law.

~~b) The transcript and the record offered in connection with the hearing shall constitute the official record. Before the transcript is filed the Hearing Officer shall notify the parties that the transcript has been produced, receive corrections from any person, examine the transcript for accuracy and then within a reasonable time certify that it is a true and correct transcript of the hearing. Only after such certification may the transcript be made available for public inspection as the Department may allow.~~

be) The record in an administrative hearing shall include:

- 1) pre-hearing records;
- 2) all pleadings (including all ~~notices~~Notices and ~~answers~~Answers, motions, briefs, and rulings);
- 3) transcript of proceedings;
- ~~4~~3) evidence ~~admitted~~received;
- ~~5~~4) a statement of matters officially noticed;
- ~~6~~5) offers of proof, objections, and rulings; and
- ~~7~~6) Findings, Opinions and Recommendations of the Hearing Officer.

(Source: Amended at 38 Ill. Reg. 19943, effective September 30, 2014)

Section 2402.270 Order of the Director

- a) The Director of Insurance shall review the Hearing Officer's Findings, Opinions and Recommendations and shall issue an Order as set forth by applicable statutes or within a reasonable time.

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- b) The decision in the case will become effective immediately upon the execution of a written Order, or as otherwise specified by either the Order or applicable ~~statute~~statue.
- c) Parties shall be immediately notified of the order, either personally or by mail, postage prepaid, certified, or registered, addressed to the last known address of the person, partnership, association, or company involved, ~~of the Order~~. A copy of the Order shall be delivered or mailed to each party ~~orand~~ to his or her attorney of record.
- d) The Director may, as part of ~~thehis~~ Order, require any party to the proceeding to pay part or all of the costs of the hearingHearing, including, but not limited to: witness fees, court reporter fees, hearing officer fees, and the cost of the transcript.

(Source: Amended at 38 Ill. Reg. 19943, effective September 30, 2014)

Section 2402.295 Cancellation/Non-Renewal Hearing

- a) Any Section of this ~~PartRule~~ to the contrary notwithstanding, the procedures set out in this Section shall apply for all hearings conducted ~~oninto~~ the cancellation/non-renewal of an insurance policy pursuant to Section 143.23 of the Illinois Insurance Code [215 ILCS 5/143.23]~~(Ill. Rev. Stat. 1981, ch. 73, 755.23)~~.
- 1) Parties – The parties to a cancellation/non-renewal hearing shall be the individual insureds named on the policy ~~thatwhich~~ has been cancelled or non-renewed and the insurance company that issued the policy. No intervention by any other party or persons shall be allowed.
 - 2) Attorneys – An attorney shall not be required. If an attorney is engaged, an appearance in accordance with Section 2402.70 ~~of this Rule~~ is required.
 - 3) Motion – All motions shall be presented at the commencement of the hearing. All motions shall become part of the record.
 - 4) Conduct of Hearing – The Hearing Officer shall conduct the hearing in the following manner:
 - A) The insured shall proceed first and present his or her case in the

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narrative. The company may ask relevant questions at the conclusion of the insured's narrative. The company shall then proceed and present its case in the narrative. The insured may ask relevant questions at the conclusion of the company's narrative.

- B) At the conclusion of all narratives and questions, if any, the Hearing Officer shall take the matter under advisement and enter his or her recommendations to the Director within 5 days.
- 5) Record – The record of the hearing shall be comprised of the Hearing Officer's notes and all documents and motions introduced, if no transcription of the proceedings is requested. The Hearing Officer may use a tape recorder to assist in the taking of notes. A party may request that the proceedings be transcribed by a court reporter as provided in Section 2402.240. This request shall be made at least one week before the hearing date, or less if a court reporter can be scheduled.
- 6) Hearing Officer's Recommendations – The Hearing Officer shall provide written recommendations and findings to the Director within 5 days after the close of the hearing. The Hearing Officer's recommendations shall be limited to one of the following:
- A) The actions of the insurance company were incorrect and the company must retain the risk; or
- B) The actions of the insurance company were correct and the company need not retain the risk.
- b) The procedures set forth in this Section are intended to provide a less formal setting for cancellation/non-renewal hearings. These procedures shall apply only to cancellation/non-renewal hearings and no others. Any Section of this Part that Rule which does not conflict with these procedures is to be followed, with careful attention given to the overall informality of cancellation/non-renewal hearings.

(Source: Amended at 38 Ill. Reg. 19943, effective September 30, 2014)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Notice of Eligibility
- 2) Code Citation: 50 Ill. Adm. Code 5301
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
5301.10	Repealed
5301.20	Repealed
5301.30	Repealed
5301.EXHIBIT A	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 11 of the Comprehensive Health Insurance Plan Act [215 ILCS 105/11] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]
- 5) Effective Date of Repealer: September 30, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 12669; June 20, 2014
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Comprehensive Health Insurance Plan (CHIP) is being phased out in that it will no longer be needed due to the Affordable Care

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

Act's ban on pre-existing conditions and requirement that new policies issued on the exchanges be guaranteed issue. The rule is being repealed to reflect this.

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

Jim Rundblom, Deputy General Counsel
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

217/785-8559
fax: 217/524-9033

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Public Information, Rulemaking and Organization
- 2) Code Citation: 2 Ill. Adm. Code 2500
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2500.10	Amendment
2500.20	Amendment
2500.30	Amendment
2500.110	Amendment
2500.120	Amendment
2500.210	Amendment
2500.220	Amendment
2500.APPENDIX A	Amendment
- 4) Statutory Authority: Illinois Public Labor Relations Act [5 ILCS 315/5(i)]
- 5) Effective Date of Rule: October 2, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the amendments, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: This rule was not subject to submission or publication at the First Notice stage.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? JCAR review is not required.
- 11) Differences between Proposal and Final Version: The rule is exempt from the comment period, as authorized by Section 5-15(b) of the Illinois Administrative Procedure Act [5 ILCS 100/5-15(b)].
- 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 rule in effect? No

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: PA 91-798 dissolved the State Labor Relations Board and the Local Labor Relations Board and created the State Panel and Local Panel of the newly created Illinois Labor Relations Board. This amends the rules to include the Board's structure, makeup and contact information.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Sarah Kerley
Deputy General Counsel
Illinois Labor Relations Board
One Natural Resources Way, First Floor
Springfield IL 62702-1271

217/785-4004
Sarah.R.Kerley@Illinois.gov

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

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XLI: ILLINOIS ~~STATE~~-LABOR RELATIONS BOARD/
~~ILLINOIS LOCAL LABOR RELATIONS BOARD~~

PART 2500
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

Section	
2500.10	General Information
2500.20	Procedural Information
2500.30	Access to Board Materials

SUBPART B: RULEMAKING

Section	
2500.110	Procedure
2500.120	Request <u>Petition</u> for Rulemaking

SUBPART C: ORGANIZATION

Section	
2500.210	Composition of the Board
2500.220	Staff Structure <u>Structures</u>
2500.APPENDIX A	<u>Illinois Labor Relations Board</u> State and Local Boards Organizational Chart
2500.APPENDIX B	State Board Organization Chart (Repealed)

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 5(j) of the Illinois Public Labor Relations Act [5 ILCS 315/5(j)].

SOURCE: Adopted at 9 Ill. Reg. 10077, effective June 17, 1985; amended at 12 Ill. Reg. 22210, effective December 8, 1988; corrected at 13 Ill. Reg. 2883; amended at 20 Ill. Reg. 7396, effective May 10, 1996; amended at 38 Ill. Reg. 19955, effective October 2, 2014.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART A: PUBLIC INFORMATION

Section 2500.10 General Information

- a) The Illinois Labor Relations Board maintains offices in both Chicago and Springfield.
- 1) The Board's Springfield office is located at:
One Natural Resources Way
First Floor
Springfield, Illinois 62702-1271
telephone: 217-785-3155
facsimile: 217-785-4146
 - 2) The Board's Chicago office is located at:
160 North LaSalle Street
Suite S-400
Chicago, Illinois 60601-3103
telephone: 312-793-6400
facsimile: 312-793-6989
- ba) The Local Panel of the Illinois Labor Relations Board has jurisdiction *over collective bargaining matters between employee organizations and units of local government with a population in excess of 1 million persons, but excluding the Regional Transportation Authority*: [5 ILCS 315/5(b)]. Such units include the County of Cook, the City of Chicago, the Chicago Transit Authority, the Metropolitan Sanitary District of Greater Chicago, the Chicago Housing Authority and the Chicago Park District. ~~The Local Board maintains an office at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103. Its telephone number is (312)793-6400. General information regarding the Local Board and its activities may be obtained by writing or telephoning the Board. Information regarding the Board's docket of pending cases and their status may be obtained by contacting the Board Clerk at the same address and telephone number.~~
- cb) The State Panel of the Illinois Labor Relations Board has jurisdiction over collective bargaining matters between employee organizations and public employers as defined in Section 3(o) of the Act and the Regional Transportation Authority [5 ILCS 315/5(a)] except for units of local government in excess of 1

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

~~million persons and school districts. It maintains offices at 320 West Washington Street, Suite 500, Springfield, Illinois 62701 and 160 North LaSalle Street, Suite S 400, Chicago, Illinois 60601-3103. Its telephone numbers are (217)785-3155 and (312)793-6400. General information regarding the State Board and its activities may be obtained by writing or telephoning the Board Clerk at either office. Information regarding the Board's docket of pending cases and their status may be obtained by writing or telephoning the Board clerk at either office.~~

- d) The State Panel and Local Panel may also meet in joint session to handle administrative and rulemaking matters affecting the Board.
- e) Information regarding the docket of pending cases and their status may be obtained by writing or telephoning a Board agent at either office.

(Source: Amended at 38 Ill. Reg. 19955, effective October 2, 2014)

Section 2500.20 Procedural Information

Information on the procedures followed by the Illinois ~~State and Local~~ Labor Relations ~~Board~~~~Boards (Labor Relations Boards)~~ in discharging ~~its~~~~their~~ statutory responsibilities is set forth in detail in the ~~Board's~~~~Boards'~~ various procedural rules. Those rules are promulgated jointly by both ~~Panels~~~~Boards~~ and cover the following subjects: General Procedures, 80 Ill. Adm. Code 1200; Representation Proceedings, 80 Ill. Adm. Code 1210; Unfair Labor Practice Proceedings, 80 Ill. Adm. Code 1220; ~~and~~ Impasse ~~Resolution~~~~Procedures~~, 80 Ill. Adm. Code 1230; Police Officer Decertification Proceedings, 80 Ill. Adm. Code 1240; and Gubernatorial Designation of Positions Excluded from Collective Bargaining, 80 Ill. Adm. Code 1300.

(Source: Amended at 38 Ill. Reg. 19955, effective October 2, 2014)

Section 2500.30 Access to Board Materials

The Illinois Labor Relations Board will make the following documents available at its website, <http://www.state.il.us/ilrb/>: the Illinois Public Labor Relations Act; the Board's regulations; final orders, decisions and opinions of cases before the Board; annual reports to the Governor and General Assembly; as well as fillable versions of the forms to be used by parties in practice before it. For information governing access to other Board documents and materials, consult the Board's rules entitled "Access to the Records of the Illinois Labor Relations Board," at 2 Ill. Adm. Code 2501.~~The Labor Relations Boards will provide copies of their regulations, and of the forms to be used by parties in practice before them, without charge to persons who request them,~~

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

~~subject to limitations upon the number requested by any person and provided that the Boards have copies on hand when such a request is made. The Boards will make available for public inspection at their offices their annual reports to the Governor and General Assembly, and their final orders, decisions and opinions determining cases. For information governing access to other Board documents and materials, consult the Boards' rules entitled "Freedom of Information", at 2 Ill. Adm. Code 2501.~~

(Source: Amended at 38 Ill. Reg. 19955, effective October 2, 2014)

SUBPART B: RULEMAKING

Section 2500.110 Procedure

Proposed additions, amendments or repealers to the rules of the Illinois Labor Relations Board~~Boards~~ must be undertaken jointly by the Panels~~Boards~~. The Board follows~~Boards follow~~ the rulemaking procedures prescribed under the Illinois Administrative Procedure Act [5 ILCS 100].

(Source: Amended at 38 Ill. Reg. 19955, effective October 2, 2014)

Section 2500.120 Request~~Petition~~ for Rulemaking

Any person may request that the Illinois Labor Relations Board~~Boards jointly~~ promulgate, amend or repeal a rule by submitting a written request~~petition of such effort~~ to the Executive Director or General Counsel of the Board~~Boards~~. The request~~petition~~ must be typewritten on standard letter-size paper, shall set forth in particular the rulemaking action desired, and shall contain the person's reasons in support of the request. A request~~petition~~ filed in accordance with this Section~~herewith~~ will be considered by the Board~~Boards~~ and the requester~~petitioner~~ shall be notified in writing as to its disposition.

(Source: Amended at 38 Ill. Reg. 19955, effective October 2, 2014)

SUBPART C: ORGANIZATION

Section 2500.210 Composition of the Board

- a) The Local Panel of the Illinois Labor Relations Board is comprised of a Chairman and two Members. The Chairman is appointed by the Governor with the advice and consent of the Senate. If no such person is appointed as Chairman of the

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~~Local Panel, the Chairman of the State Panel shall also serve as the Chairman of the Local Panel, and simultaneously serves as Chairman of the State Labor Relations Board with a term of four years.~~ One of the Local ~~Panel~~Board Members is appointed by the Mayor of the City of Chicago with a term of four years, and the other ~~Local Panel~~ Member is appointed by the President of the Cook County Board of Commissioners with a term of four years.

- b) The State ~~Panel of the Illinois~~ Labor Relations Board is comprised of a Chairman and ~~four~~two Members. All are appointed by the Governor with the advice and consent of the Senate; each is appointed for a term of four years; the Chairman simultaneously serves as Chairman ~~when~~of the ~~Panels meet in joint session~~Local Labor Relations Board.

(Source: Amended at 38 Ill. Reg. 19955, effective October 2, 2014)

Section 2500.220 Staff ~~Structure~~Structures

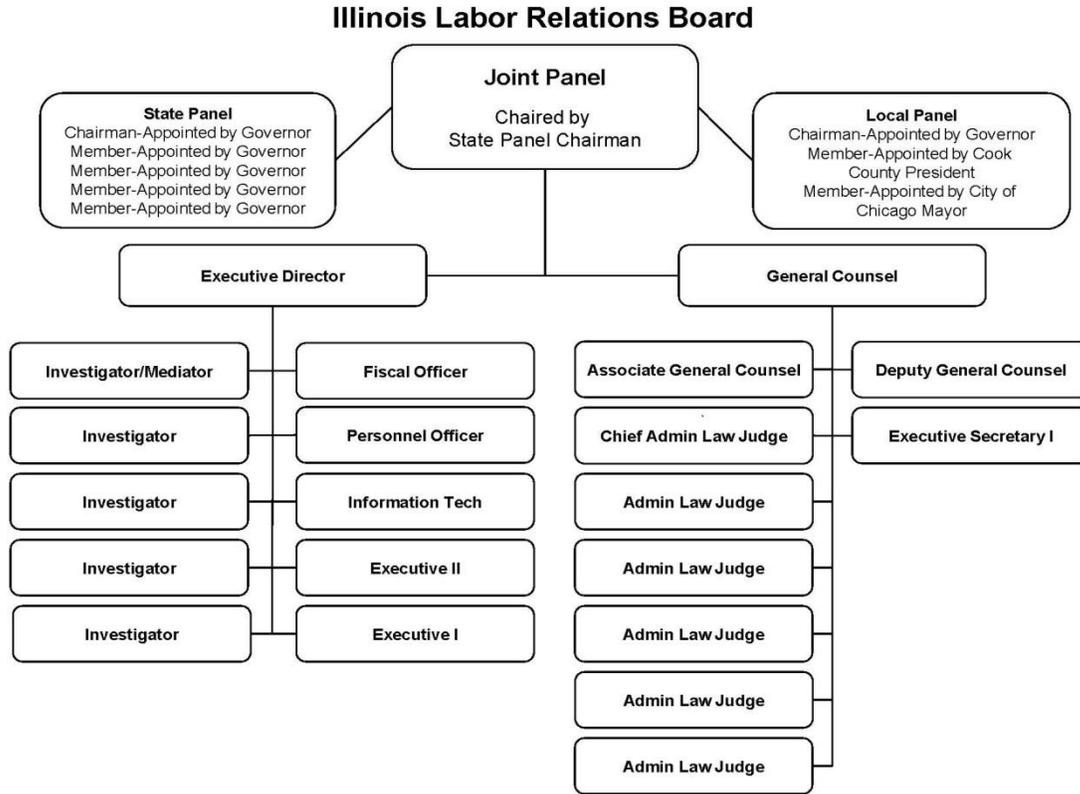
The ~~Illinois~~ Labor Relations ~~Board~~Boards shall employ an Executive Director and a General Counsel who shall be responsible for the operations of the offices of the ~~Board~~Boards. The staff of the ~~Illinois~~ Labor Relations ~~Board~~Boards is organized chiefly into two divisions, as depicted in Appendix A. The ~~Board's~~Boards' Executive Director is responsible for the ~~Board's~~Boards' administrative operations, and for supervising the ~~Board's~~Boards' investigations of representation petitions and unfair labor practice charges filed with the ~~Board~~Boards. The ~~Board's~~Boards' General Counsel is responsible for its legal affairs, for advising the ~~Board~~Boards on legal matters, and for supervising the ~~Board's~~Boards' attorneys who serve as administrative law judges in representation and unfair labor practice proceedings.

(Source: Amended at 38 Ill. Reg. 19955, effective October 2, 2014)

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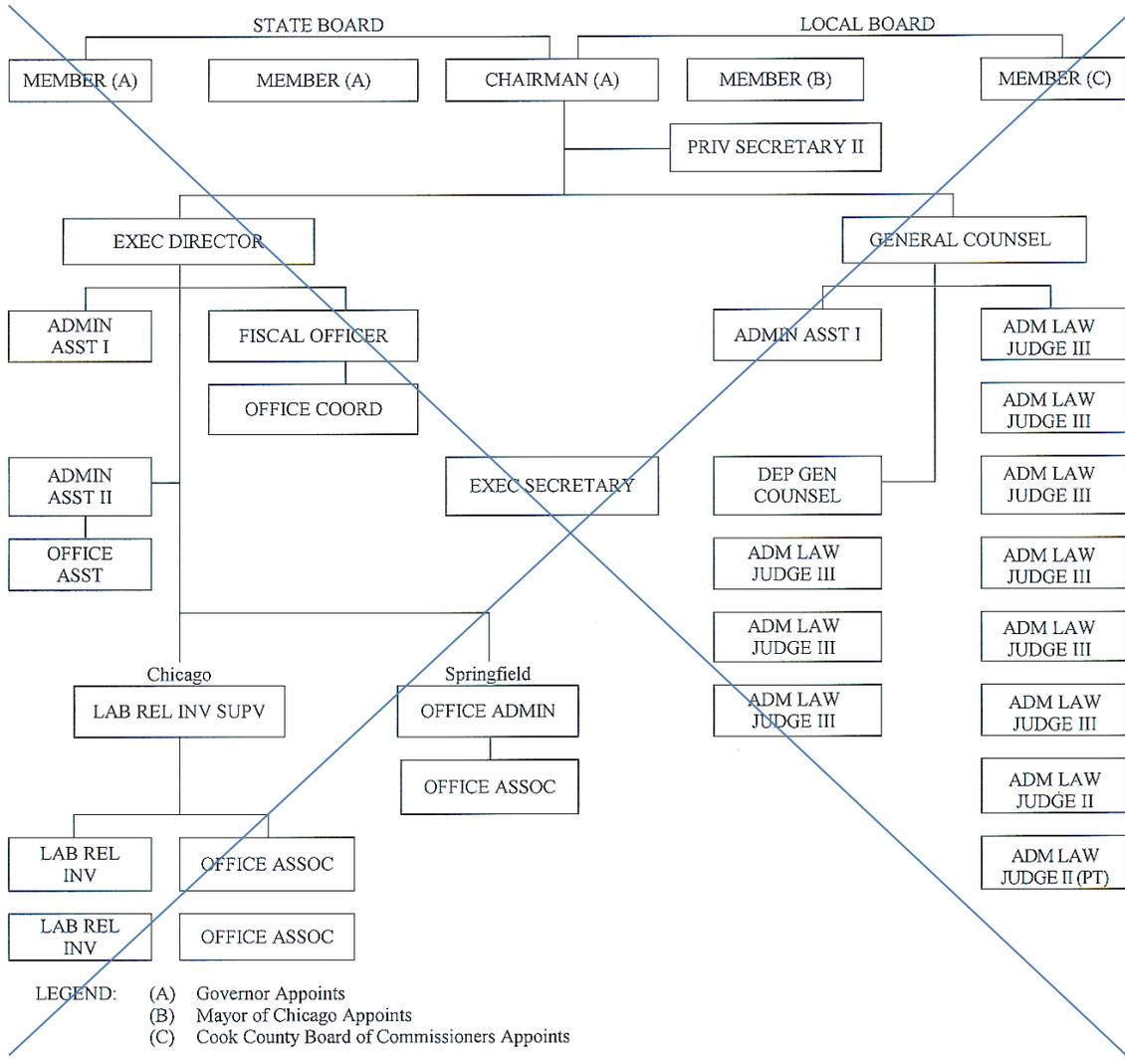
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Section 2500.APPENDIX A Illinois Labor Relations Board State and Local Boards
Organizational Chart



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(Source: Amended at 38 Ill. Reg. 19955, effective October 2, 2014)

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Freedom of Information
- 2) Code Citation: 2 Ill. Adm. Code 2501
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2501.10	Repeal
2501.20	Repeal
2501.30	Repeal
2501.40	Repeal
2501.50	Repeal
2501.60	Repeal
2501.70	Repeal
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315/5(i)]
- 5) Effective Date of Repealer: October 2, 2014
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this adopted repealer contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: This rule was not subject to submission or publication at the first notice stage.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? JCAR review is not required.
- 11) Differences between Proposal and Final Version: The rule is exempt from the comment period, as authorized by Section 5-15(b) the Illinois Administrative Procedure Act [5 ILCS 100/5-15(b)].
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No
- 13) Will this rulemaking replace any emergency rule in effect? No

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- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Illinois Labor Relations Board's rules related to "Freedom of Information" are not consistent with the current state of the law. The Board is simultaneously adopting rules regarding public access to records.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Sarah Kerley
Deputy General Counsel
Illinois Labor Relations Board
One Natural Resources Way, First Floor
Springfield IL 62702-1271

217/785-4004
Sarah.R.Kerley@Illinois.gov

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- 1) Heading of the Part: Access to the Records of the Illinois Labor Relations Board
- 2) Code Citation: 2 Ill. Adm. Code 2501
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
2501.110	New Section
2501.120	New Section
2501.210	New Section
2501.220	New Section
2501.230	New Section
2501.310	New Section
2501.320	New Section
2501.330	New Section
2501.410	New Section
2501.420	New Section
2501.430	New Section
2501.440	New Section
2501.450	New Section
2501.460	New Section
2501.470	New Section
2501.480	New Section
2501.510	New Section
2501.520	New Section
2501.530	New Section
2501.APPENDIX A	New Section
- 4) Statutory Authority: Safety Inspection & Education Act [820 ILCS 220] and Health and Safety Act [820 ILCS 225]
- 5) Effective Date of Rule: October 2, 2014
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

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- 9) Notice of Proposal published in the *Illinois Register*: This rule was not subject to submission or publication at the First Notice stage.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? JCAR review is not required.
- 11) Differences between Proposal and Final Version: The rule is exempt from the comment period, as authorized by Section 5-15(b) of the Illinois Administrative Procedure Act [5 ILCS 100/5-15(b)].
- 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 rule in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Illinois Labor Relations Board's existing rules related to "Freedom of Information" are not consistent with the state of the law. These rules and a related repealer of existing rules are intended to correct that.
- 16) Information and questions regarding these adopted rules shall be directed to:

Sarah Kerley
Deputy General Counsel
Illinois Labor Relations Board
One Natural Resources Way, First Floor
Springfield IL 62702-1271

217/785-4004
Sarah.R.Kerley@Illinois.gov

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

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TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XLI: ILLINOIS LABOR RELATIONS BOARD

PART 2501

ACCESS TO THE RECORDS OF THE ILLINOIS LABOR RELATIONS BOARD

SUBPART A: INTRODUCTION

Section	
2501.110	Summary and Purpose
2501.120	Definitions

SUBPART B: CLASSIFICATION OF RECORDS

Section	
2501.210	Records that Will Be Disclosed
2501.220	Records that Will Be Withheld from Disclosure
2501.230	Statutory Exemptions

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE AGENCY

Section	
2501.310	Submittal of Requests for Records
2501.320	Information To Be Provided in Requests for Records
2501.330	Requests for Records for Commercial Purposes

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section	
2501.410	Timeline for Agency Response
2501.420	Requests for Records that the Agency Considers Unduly Burdensome
2501.430	Recurrent Requesters
2501.440	Requests for Records that Require Electronic Retrieval
2501.450	Denials of Requests for Records
2501.460	Requests for Review of Denials – Public Access Counselor
2501.470	Circuit Court Review
2501.480	Administrative Review

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SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section

2501.510	Inspection and Copying of Records
2501.520	Fees for Records
2501.530	Reduction and Waiver of Fees

2501.APPENDIX A Fee Schedule for Duplication and Certification of Records

AUTHORITY: Implementing Section 3(g) of the Freedom of Information Act [5 ILCS 140], and authorized by Section 5(j) of the Illinois Public Labor Relations Act [5 ILCS 315/5(j)].

SOURCE: Adopted at 9 Ill. Reg. 10067, effective June 17, 1985; amended at 12 Ill. Reg. 22204, effective December 8, 1988; amended at 20 Ill. Reg. 7384, effective May 10, 1996; old Part repealed at 38 Ill. Reg. 19964, and new Part adopted at 38 Ill. Reg. 19966, effective October 2, 2014.

SUBPART A: INTRODUCTION

Section 2501.110 Summary and Purpose

- a) This Part states the policy of Illinois Labor Relations Board 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 shall be disclosed; and
 - B) Records that shall 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 2501.120 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:

"Act" means the Illinois Public Labor Relations Act [5 ILCS 315].

"Agency" means the Illinois Labor Relations Board as established by the Act.

"Commercial purpose" means the use of any part of a record or records, or information derived from 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 or 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 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)

"Executive Director" means the Executive Director of the Agency.

"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.

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"News media" means a newspaper or other periodical issued at regular intervals, news service in paper or electronic form, radio station, television station, television network, 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)

"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 same public body a minimum of 50 requests for records, a minimum of 15 requests for records within a 30-day

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period, or a minimum of 7 requests for records within a 7-day period. For the purposes of this definition, requests made by news media and non-profit, scientific, or academic 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 public body chooses to honor oral requests) that is submitted to a public body via personal delivery, mail, telefax, electronic mail, or other means available to the public body 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.

"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 2501.210 Records that Will Be Disclosed

Upon 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 2501.202 or 2501.203. Records covered under this Section shall include, but are not 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 2501.220(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 2501.220 or 2501.230 of this Part may be redacted. (Section 2.20 of FOIA)*

Section 2501.220 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 may elect to redirect the information that is exempt. 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) *Showings of interest submitted to the Board in conjunction with petitions in representation cases, and materials generated by the Board's investigations of such showings;*
 - 2) *Position statements and evidence submitted to the Board in the course of any investigation in an unfair labor practice proceeding;*
 - 3) *Marked ballots, voting lists and other records potentially identifying voters or non-voters and the character of their votes in secret ballot elections conducted by the Board;*

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- 4) Position statements and evidence submitted to the Board in the course of any investigation of objections to elections;
- 5) *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)*
- 6) *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)*
- 7) *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 physical or mental status of one or more individual subjects; (Section 7(1)(b-5) of FOIA)*
- 8) *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)*
- 9) *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;*

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- 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;*
 - 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)
- 10) *Records that relate to or affect the security of correctional institutions and detention facilities; (Section 7(1)(e) of FOIA)*
 - 11) *Records requested by persons committed to the Department of Corrections if those materials are available in the library of the correctional facility where the inmate is confined; (Section 7(1)(e-5) of FOIA)*
 - 12) *Records requested by persons committed to the Department of Corrections if those materials include records from staff members' personnel files, staff rosters, or other staffing assignment information; (Section 7(1)(e-6) of FOIA)*
 - 13) *Records requested by persons committed to the Department of Corrections if those materials are available through an administrative request to the Department of Corrections; (Section 7(1)(e-7) of FOIA)*

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- 14) *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)(14) 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)*
- 15) *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)(15) 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)(15) does not apply to the identity 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)(15) shall be construed to prevent a person or business from consenting to disclosure; (Section 7(1)(g) of FOIA)*
- 16) *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)*

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- 17) *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)(17) does not extend to requests made by news media as defined in Section 2501.120 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)*
- 18) *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)*
- 19) *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)*
- 20) *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*

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minutes available to the public under Section 2.06 of the Open Meetings Act; (Section 7(1)(l) of FOIA)

- 21) *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)*
- 22) *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)*
- 23) *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)*
- 24) *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)*
- 25) *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)*
- 26) *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*

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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)

- 27) *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)
- 28) *Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an Agency 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)
- 29) *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)
- 30) *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)(30) 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)
- 31) *Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching*

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facilities owned by a utility, by a power generator, or by the Illinois Power Agency; (Section 7(1)(x) of FOIA)

- 32) *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)*
- 33) *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)*
- 34) *Information the disclosure of which is exempted under the Viatical Settlements Act of 2009 [215 ILCS 158]; (Section 7(1)(aa) of FOIA)*
- 35) *Records and information provided to the mortality review team and records maintained by mortality review team appointed under the Department of Juvenile Justice Mortality Review Team Act; (Section 7(1)(bb) of FOIA).*
- 36) *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)(cc) of FOIA)*
- 37) *Correspondence and records that may not be disclosed under Section 11-9 of the Public Aid Code or that pertains to appeals under Section 11-8 of the Public Aid Code; (Section 7(1)(dd) of FOIA)*
- 38) *The names, addresses, or other personal information of persons who are minors and are also participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations; (Section 7(1)(ee) of FOIA)*

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- 39) *The names, addresses, or other personal information of participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations where such programs are targeted primarily to minors; and (Section 7(1)(ff) of FOIA)*
- 40) *Confidential information described in Section 1-100 of the Illinois Independent Tax Tribunal Act of 2012 [35 ILCS 1010]. (Section 7(1)(gg) of FOIA)*
- 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 2501.230 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].*

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- 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 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.*

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- 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].*
- 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].*
- t) *All identified or deidentified health information in the form of health data or medical records contained in, stored in, submitted to, transferred by, or released from the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information Exchange in the possession of the Illinois Health Information Exchange Authority due to its administration of the Illinois Health Information Exchange. The terms "identified" and "deidentified" shall be given the same meanings as ascribed in the Health Insurance Accountability and Portability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.*
- u) *Records and information provided to an independent team of experts under the Developmental Disability and Mental Health Safety Act or Brian's Law [405 ILCS 82].*
- v) *Names and information of people who have applied for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act [430 ILCS 65] or applied for or received a concealed carry license under the Firearm Concealed Carry Act [43 ILCS 66], unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the*

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Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.

- w) *Personally identifiable information that is exempted from disclosure under Section 19.1(g) of the Toll Highway Act. [605 ILCS 10]*
- x) *Information that is exempted from disclosure under Section 5-1014.3 of the Counties Code [55 ILCS 5] or Section 8-11-21 of the Illinois Municipal Code [65 ILCS 5].*
- y) *Confidential information under the Adult Protective Services Act [320 ILCS 20] and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of significant abuse, neglect, or financial exploitation of an eligible adult maintained in the Department of Public Health's Health Care Worker Registry.*
- z) *Records and information provided to an at-risk adult fatality review team or the Illinois At-Risk Adult Fatality Review Team Advisory Council under Section 15 of the Adult Protective Services Act. (Section 7.5 of FOIA)*

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE AGENCY

Section 2501.310 Submittal of Requests for Records

- a) Any request for public records should be submitted in writing to the FOI Officer at the Agency.
- b) The Agency has one FOI Officer, located in the Agency's Springfield office.
- c) Contact information for the Agency's FOI Officer can be found online at <http://www.illinois.gov/pages/foiacontacts.aspx>.
- d) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery. Requests should be mailed or hand delivered to:

Illinois Labor Relations Board
One Natural Resources Way

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Springfield IL 62702-1271
Attn: FOI Officer

- e) E-mailed requests should be sent to ilrb.filing@illinois.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 217-785-4146, Attn: FOI Officer.

Section 2501.320 Information To Be Provided in Requests for Records

A request for records should include:

- a) The complete name, mailing address and/or e-mail 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 2501.420 of this Part.);
- 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 2501.330 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)*

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- 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 2501.220 or 2501.230;*
 - 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 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 2501.410 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 those copies. If the Agency fails to respond to a request received, it will not treat the request as unduly burdensome as provided under Section 2501.420. (Section 3(d) of FOIA) A written request from the Agency to provide additional information shall be considered a response to the FOIA request.

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- 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;*
 - 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*

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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 2501.420. (Section 3(f) of FOIA)

Section 2501.420 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 to which compliance will so burden the operations of the Agency. The response shall be treated as a denial of the request for information. (Section 3(g) of FOIA)*
- c) *Repeated requests from the same person for records that are unchanged or identical to records previously provided or properly denied under this Part shall be deemed unduly burdensome. (Section 3(g) of FOIA)*

Section 2501.430 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 2501.120, within 21 business 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;**

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- 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, of the reasons why 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 2501.440 Requests for Records that Require Electronic Retrieval

- 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 2501.450 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 2501.420, and the requester has not reduced the request to manageable proportions; or

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- 2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 2501.220 or 2501.230 of this Part.
- 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 the 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.
- d) If the Agency has given written notice pursuant to Section 2501.410(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 2501.410.* (Section 9(c) of FOIA)

Section 2501.460 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. The request for review shall be in writing, be signed by the requester, and*

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include a copy of the request for access to records and any response from the Agency. (Section 9.5(a) of FOIA)

- b) *A person whose request to inspect or copy a record is made for a commercial purpose may not file a request for review with the Public Access Counselor. A person whose request to inspect or copy a record was treated by the Agency as a request for a commercial purpose may file a request for review with the Public Access Counselor for the limited purpose of reviewing whether the Agency properly determined that the request was made for a commercial purpose. (Section 9.5(b) of FOIA)*
- c) *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)*
- d) *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)*
- e) *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)*
- f) *In addition to the request for review, and the answer and response to the request, 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)*
- g) *A binding opinion from the Attorney General shall be binding upon both the requester and the Agency, subject to administrative review under Section 2501.408. (Section 9.5(f) of FOIA)*
- h) *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*

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opinion, the decision not to issue a binding opinion shall not be reviewable.
(Section 9.5(f) of FOIA)

- i) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the Agency will either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 2501.480. If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under Section 2501.480.* (Section 9.5(f) of FOIA)
- j) *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)
- k) *If the requester files suit under Section 2501.470 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor.* (Section 9.5(g) of FOIA)
- l) *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 Executive Director of the Agency or the Agency's General 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 2501.470 Circuit Court Review

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 2501.480 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

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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 2501.510 Inspection and Copying of Records

- a) The Agency may make available records for personal inspection at the Agency's headquarters office located at One Natural Resources Way, Springfield, Illinois 62702-1271, or at another location 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 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 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.

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- 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 2501.520 Fees for Records

- a) In accordance with Section 2501.530, 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 2501.410, 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 2501.510, or at another location 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 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;

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- 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.
- f) *The Agency may charge up to \$10 for each hour spent by personnel in searching for and retrieving a requested record. No fees shall be charged for the first 8 hours spent by personnel in searching for or retrieving a requested record. The Agency may charge the actual cost of retrieving and transporting public records from an off-site storage facility when the public records are maintained by a third-party storage company under contract with the Agency. If the Agency imposes a fee pursuant to this subsection (f), it must provide the requestor with an accounting of all fees, costs, and personnel hours in connection with the request for public records. The provisions of this subsection (f) apply only to commercial requests. (Section 6(f) of FOIA)*

Section 2501.530 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*

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- 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, safety, welfare or legal rights of the general public. (Section 6(c) of FOIA)*
- b) *In setting the amount of the waiver or reduction, the Agency will take into consideration the amount of materials requested and the cost of copying them. (Section 6(c) of FOIA)*
- c) 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.
- d) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of 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 2501.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 REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
130.601	Repeal
130.605	Amendment
130.610	Repeal
- 4) Statutory Authority: 20 ILCS 2505/2505-795
- 5) Effective Date of Rule: October 1, 2014
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 13161, June 27, 2014
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR: Only grammatical and technical changes were made. No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
130.2080	Amendment	38 Ill. Reg. 9171, May 2, 2014
130.Illustration A	Amendment	38 Ill. Reg. 9171, May 2, 2014

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: These amendments will make the regulations governing the Retailers' Occupation Tax Act consistent with the decision of the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer* (2013 IL 115130) and the regulations governing the various Retailers' Occupation Tax Acts for local taxing jurisdictions, such as the Home Rule County Retailers' Occupation Tax Act (86 Ill. Adm. Code 220.115).
- 16) Information and questions regarding this adopted rule shall be directed to:

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

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

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

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1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at

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25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421, effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38 Ill. Reg. 19998, effective October 1, 2014.

SUBPART F: INTERSTATE COMMERCE

Section 130.601 Preliminary Comments (Repealed)

- a) ~~All Department Regulations which relate to the Retailers' Occupation Tax Act and which state that persons who are engaged in specific occupations or activities are engaged in the business of selling tangible personal property to purchasers for use or consumption are subject to the provisions of this Regulation:~~
 - 1) ~~Whenever a question of the situs of the "business of selling" is involved,~~

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and

- 2) ~~whenever a question of interstate commerce is involved. The Department reserves the right to pass upon each such question as and when such question arises.~~
- b) ~~The Department will not state its position upon hypothetical questions. If a ruling under this Regulation is desired, the Department will make such ruling, provided that all of the pertinent facts surrounding the transaction, copies of pertinent contracts of sale and other relevant data are submitted to the Department.~~
- e) ~~This Regulation deals solely with the question of whether or not a person who is "engaged in the business of selling tangible personal property at retail" is engaged in such business in this State, and with the question of the relation of such business to interstate commerce. (For information concerning the elements which are involved in determining whether or not an occupation or enterprise is "the business of selling tangible personal property at retail," see Subpart A of this Part.)~~

(Source: Repealed at 38 Ill. Reg. 19998, effective October 1, 2014)

Section 130.605 Sales of Property Originating in Illinois; Questions of Interstate Commerce

- a) Where tangible personal property is located in this State at the time of its sale (or is subsequently produced in Illinois), and then delivered in Illinois to the purchaser, the seller is taxable if the sale is at retail.
 - 1) The sale is not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in this State.
 - 2) This is so notwithstanding the fact that the purchaser may, after receiving physical possession of the property in this State, transport or send the property out of the State for use outside the State or for use in the conduct of interstate commerce.
 - 3) The place at which the contract of sale or contract to sell is negotiated and executed and the place at which title to the property passes to the

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purchaser are immaterial. The place at which the purchaser resides is also immaterial. It likewise makes no difference that the purchaser is a carrier when that happens to be the case.

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

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retailer must also obtain and keep in the records related to the sale a certification from the purchaser in substantially the following form:

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

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

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

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

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

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

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requirements of subsection (b)(1)(A)(i), (ii) or (iii) to document the exemption, then the exemption claimed by the retailer shall be disallowed subject to further review by the Department.

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

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- the retailer that is required to be titled or registered with an agency of Illinois government;
- ii) "all-terrain vehicles" as defined in Section 1-101.8 of the Illinois Vehicle Code;
 - iii) "motorcycles", as defined in Section 1-147 of the Illinois Vehicle Code, that are not eligible for vehicle registration because they are not properly manufactured or equipped for general highway use;
 - iv) "motor driven cycles", as defined in Section 1-145.001 of the Illinois Vehicle Code, that are not eligible for vehicle registration because they are not properly manufactured or equipped for general highway use;
 - v) "off-highway motorcycles" as defined in Section 1-153.1 of the Illinois Vehicle Code; or
 - vi) "snowmobiles" as defined in Section 1-2.15 of the Snowmobile Registration and Safety Act [625 ILCS 40/1-2.15].
- 2) *Beginning July 1, 2007, the Retailers' Occupation Tax is not imposed on the sale of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act [620 ILCS 5/3], if all of the following three conditions are met:*
- A) *the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*
 - B) *the aircraft is not based or registered in this State after the sale of the aircraft; and*
 - C) *the seller retains in his or her books and records and provides to the Department a signed and dated certification from the*

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purchaser, on a form prescribed by the Department, certifying that the requirements of this subsection (b)(2) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require. [35 ILCS 120/2-5(25-7)] (See Section 130.120.)

- D) For purposes of this subsection (b)(2):
- i) *"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.*
 - ii) *"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State. [35 ILCS 120/2-5(25-7)]*
- 3) The seller does not incur Retailers' Occupation Tax liability with respect to *the proceeds from the sale of an item of tangible personal property to a common carrier by rail or motor that receives physical possession of property in Illinois and that transports the property, or shares with another common carrier in transporting the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois. [35 ILCS 120/2-5(17)]* The exception for sales to common carriers by rail or motor, which is described in subsection (b)(3), is also applicable to local occupation taxes administered by the Department.
- c) The tax does not extend to gross receipts from sales in which the seller is obligated, under the terms of his or her agreement with the purchaser, to make physical delivery of the goods from a point in this State to a point outside this State, not to be returned to a point within this State, provided that the delivery is actually made.

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- d) Nor does the tax apply to gross receipts from sales in which the seller, by carrier (when the carrier is not also the purchaser) or by mail, under the terms of his or her agreement with the purchaser, delivers the goods from a point in this State to a point outside this State not to be returned to a point within this State. The fact that the purchaser actually arranges for the common carrier or pays the carrier that effects delivery does not destroy the exemption. However, it is critical that the seller is shown as the consignor or shipper on the bill of lading. If the purchaser is shown as either the consignor or the shipper, the exemption will not apply.
- e) ~~The place at which title to the property passes to the purchaser is immaterial. The place at which the contract of sale or contract to sell is negotiated and executed and the place at which the purchaser resides are also immaterial.~~ Sales of the type described in subsections (c) and (d) are deemed to be within the protection of the Commerce Clause of the Constitution of the United States.
- f) To establish that the gross receipts from any given sale are exempt because the tangible personal property is delivered by the seller from a point within this State to a point outside this State under the terms of an agreement with the purchaser, the seller will be required to retain in his or her records, to support deductions taken on his or her tax returns proof that satisfies the Department that there was an agreement and a bona fide delivery outside this State of the property that is sold. The most acceptable proof of this fact will be:
- 1) If shipped by common carrier, a waybill or bill of lading requiring delivery outside this State;
 - 2) if sent by mail, an authorized receipt from the United States Post Office department for articles sent by registered mail, parcel post, ordinary mail or otherwise, showing the name of the addressee, the point outside Illinois to which the property is mailed and the date of the mailing; if the receipt does not comply with these requirements, other supporting evidence will be required;
 - 3) if sent by seller's own transportation equipment, a trip sheet signed by the person making delivery for the seller and showing the name, address and signature of the person to whom the goods were delivered outside this State; or, in lieu thereof, an affidavit signed by the purchaser or his or her representative, showing the name and address of the seller, the name and

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address of the purchaser and the time and place of the delivery outside Illinois by the seller; together with other supporting data as required by Section 130.810 of this Part and by Section 7 of the Act.

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

(Source: Amended at 38 Ill. Reg. 19998, effective October 1, 2014)

Section 130.610 Sales of Property Originating in Other States (Repealed)

a) ~~Preliminary Comments~~

- 1) ~~In all examples set out herein below, there are three basic facts which will not be restated in the examples in the interest of avoiding repetition, but which will be assumed to be present in each of the examples. These assumed facts are the following:~~
- A) ~~That the property which is involved is located outside Illinois at the time of its sale (or subsequently will be produced outside Illinois);~~
- B) ~~that the purchaser or his representative (not an independent carrier engaged in the business of transporting property for hire) first receives the physical possession of the property in Illinois; it is immaterial that the purchaser or his representative subsequently takes or sends the property out of Illinois for use outside Illinois or for use in the conduct of interstate commerce after receiving physical possession of the property in Illinois, and~~
- C) ~~that the sale is at retail and is not made as a necessary and incidental part of a transaction in which the seller is engaged in a~~

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~~tax-exempt service-occupation.~~

- 2) ~~Each type of sale will be considered on its own facts. If the sale is made by or through an Illinois place of business at which the seller sometimes makes intrastate retail sales, refer to Subsection (b) below. If the sale is made by or through an Illinois place of business at which the seller does not make any intrastate retail sales, refer to Subsection (c) below. If the sale is made by or through the seller's place of business outside Illinois, refer to Subsection (d).~~

- b) ~~Sales Made by or Through an Illinois Place of Business at Which the Seller Sometimes Makes Intrastate Retail Sales~~
~~The seller incurs Retailers' Occupation Tax liability with respect to his receipts from a particular sale if the sale is made by or through an Illinois place of business at which the seller sometimes makes intrastate retail sales. This happens, for example, if such a place of business either~~
 - 1) ~~makes a complete and unconditional offer to sell, which is accepted without modification by the purchaser so as to create a contract, or~~
 - 2) ~~receives an offer or counteroffer to purchase (regardless of where the seller accepts such offer or counteroffer), or~~
 - 3) ~~accepts (i.e., approves so as to create a contract) an offer or counteroffer to purchase, or~~
 - 4) ~~makes final delivery of the property in Illinois to the purchaser. (The reference, immediately above, to the making of final delivery of the property in Illinois does not include the delivery of the property by the seller outside Illinois to an independent carrier for transportation directly to the purchaser.)~~

- e) ~~Sales Made by or Through an Illinois Place of Business at Which the Seller Makes No Intrastate Retail Sales~~
 - 1) ~~The seller may incur Retailers' Occupation Tax liability when the sale is made by or through an Illinois place of business at which he does not make any intrastate retail sales. This is the case, for example, where such a place of business either~~

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- A) ~~accepts the contract of sale for the seller, or~~
 - B) ~~receives an offer or counteroffer to purchase, which, under authority granted by the seller, can be accepted for the seller by someone in Illinois so as to create a contract (whether such authority is exercised in a particular case or not), or~~
 - C) ~~makes a complete and unconditional offer to sell which offer is accepted without modification by the purchaser so as to create a contract, or~~
 - D) ~~receives an order subject to acceptance by the seller outside Illinois, but the seller transfers title to the property in Illinois to the purchaser, or the seller or his representative makes final delivery of the property in Illinois to the purchaser. (The reference, immediately above, to the making of final delivery of the property in Illinois does not include the delivery of the property by the seller outside Illinois to an independent carrier for transportation directly to the purchaser.)~~
- 2) ~~The seller's maintenance, in Illinois, of a place of business at which the seller makes no intrastate retail sales does not make the seller taxable in a particular case merely because such place of business engages in promotional activities in Illinois and receives an order which is subject to acceptance outside Illinois by the seller. However, for information concerning the application of the Use Tax to mere solicitation in Illinois by the seller, see Subpart B of the Use Tax Regulations (86 Ill. Adm. Code 150).~~
- d) ~~Sales Made by or Through a Place of Business Outside Illinois~~
- 1) ~~No Retailers' Occupation Tax liability will be incurred in the following situations:~~
 - A) ~~Where a representative of the seller who reports directly to an out-of-State place of business of the seller, and who is not connected in any way with any Illinois place of business of the seller, receives, in Illinois, an order which is subject to acceptance by the seller~~

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~~outside Illinois;~~

- ~~B) where the seller, from a point outside Illinois, makes an offer directly to the purchaser who transmits his acceptance directly to the seller outside Illinois, or~~
 - ~~C) where the purchaser sends an offer or counteroffer to purchase directly to the seller outside Illinois and the seller accepts the offer or counteroffer outside Illinois.~~
- ~~2) In these situations, it is immaterial where title to the property passes to the purchaser. It is also immaterial how or by whom delivery of the property is made, provided that final delivery is not made by or through an Illinois place of business at which the seller does some intrastate retail selling.~~
- ~~3) In the following situations where the sale is made by or through an out-of-State place of business of the seller, Retailers' Occupation Tax liability will, nevertheless, be incurred:~~
- ~~A) Where the seller or his authorized representative accepts an order in Illinois so as to create a contract, or~~
 - ~~B) where the order is received in Illinois on behalf of the seller and someone in Illinois has authority to accept such order so as to create a contract (whether such authority is exercised in the particular case or not).~~
- ~~4) Even though the seller's out of State place of business is involved in the transaction in some way, Subsection (b) or Subsection (c) of this Section, rather than Subsection (d), applies if an Illinois place of business of the seller receives the offer or counteroffer to purchase, or accepts the offer or counteroffer to purchase so as to create a contract, or transmits a complete and unconditional offer to sell to the purchaser, or makes the final delivery of the property in Illinois to the purchaser. In that event, the answer to the question of whether Subsection (b) or Subsection (c) applies depends on whether or not such Illinois place of business of the seller is a place of business at which the seller does some intrastate retail selling in Illinois.~~

(Source: Repealed at 38 Ill. Reg. 19998, effective October 1, 2014)

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- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Number: 150.201 Adopted Action:
Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-795
- 5) Effective Date of Rule: October 1, 2014
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 13186, June 27, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Only grammatical and technical changes were made. No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This amendment will make the regulations governing the Use Tax Act consistent with the decision of the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer* (2013 IL 115130) and the regulations governing the various Retailers' Occupation Tax Acts for local taxing jurisdictions, such as the Home Rule County Retailers' Occupation Tax Act (86 Ill. Adm. Code 220.115).

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 150
USE TAX

SUBPART A: NATURE OF THE TAX

Section	
150.101	Description of the Tax
150.105	Rate and Base of Tax
150.110	How To Compute Depreciation
150.115	How To Determine Effective Date
150.120	Effective Date of New Taxes
150.125	Relation of Use Tax to Retailers' Occupation Tax
150.130	Accounting for the Tax
150.135	How to Avoid Paying Tax on Use Tax Collected From the Purchaser

SUBPART B: DEFINITIONS

Section	
150.201	General Definitions

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section	
150.301	Cross References
150.305	Effect of Limitation that Purchase Must be at Retail From a Retailer to be Taxable
150.306	Interim Use and Demonstration Exemptions
150.310	Exemptions to Avoid Multi-State Taxation
150.311	Commercial Distribution Fee Sales Tax Exemption
150.315	Non-resident Exemptions
150.320	Meaning of "Acquired Outside This State"
150.325	Charitable, Religious, Educational and Senior Citizens Recreational Organizations as Buyers
150.330	Governmental Bodies as Buyers
150.331	Persons Who Lease Tangible Personal Property to Exempt Hospitals
150.332	Persons Who Lease Tangible Personal Property to Governmental Bodies
150.335	Game or Game Birds Purchased at Game Breeding and Hunting Areas or Exotic

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- Game Hunting Areas
- 150.336 Fuel Brought into Illinois in Locomotives
- 150.337 Food, Drugs, Medicines and Medical Appliances When Purchased for Use by a Person Receiving Medical Assistance under the Illinois Public Aid Code
- 150.340 Manufacturing Machinery and Equipment; Production Related Tangible Personal Property; Department Determination of Amount of Exemption

SUBPART D: COLLECTION OF THE USE TAX FROM USERS BY RETAILERS

- Section
- 150.401 Collection of the Tax by Retailers From Users
- 150.405 Tax Collection Brackets
- 150.410 Tax Collection Brackets for a 2 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.415 Tax Collection Brackets for a 2 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.420 Tax Collection Brackets for a 2 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.425 Tax Collection Brackets for a 3% Rate of Tax (Repealed)
- 150.430 Tax Collection Brackets for a 3 $\frac{1}{8}$ % Rate of Tax (Repealed)
- 150.435 Tax Collection Brackets for a 3 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.440 Tax Collection Brackets for a 3 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.445 Tax Collection Brackets for a 3 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.450 Tax Collection Brackets for a 4% Rate of Tax (Repealed)
- 150.455 Tax Collection Brackets for a 4 $\frac{1}{8}$ % Rate of Tax (Repealed)
- 150.460 Tax Collection Brackets for a 4 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.465 Tax Collection Brackets for a 4 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.470 Tax Collection Brackets for a 4 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.475 Tax Collection Brackets for a 5% Rate of Tax (Repealed)
- 150.480 Tax Collection Brackets for a 5 $\frac{1}{8}$ % Rate of Tax (Repealed)
- 150.485 Tax Collection Brackets for a 5 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.490 Tax Collection Brackets for a 5 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.495 Tax Collection Brackets for a 5 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.500 Tax Collection Brackets for a 6% Rate of Tax (Repealed)
- 150.505 Optional 1% Schedule (Repealed)
- 150.510 Exact Collection of Tax Required When Practicable
- 150.515 Prohibition Against Retailer's Representing That He Will Absorb The Tax
- 150.520 Display of Tax Collection Schedule (Repealed)
- 150.525 Methods for Calculating Tax on Sales of Items Subject to Differing Tax Rates

SUBPART E: RECEIPT FOR THE TAX

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Section
150.601 Requirements

SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

Section
150.701 When and Where to File a Return
150.705 Use Tax on Items that are Titled or Registered in Illinois
150.710 Procedure in Claiming Exemption from Use Tax
150.715 Receipt for Tax or Proof of Exemption Must Accompany Application for Title or
Registration
150.716 Display Certificates for House Trailers
150.720 Issuance of Title or Registration Where Retailer Fails or Refuses to Remit Tax
Collected by Retailer from User
150.725 Direct Payment of Tax by User to Department on Intrastate Purchase Under
Certain Circumstances
150.730 Direct Reporting of Use Tax to Department by Registered Retailers

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

Section
150.801 When Out-of-State Retailers Must Register and Collect Use Tax
150.805 Voluntary Registration by Certain Out-of-State Retailers
150.810 Incorporation by Reference

SUBPART H: RETAILERS' RETURNS

Section
150.901 When and Where to File
150.905 Deduction for Collecting Tax
150.910 Incorporation by Reference
150.915 Itemization of Receipts from Sales and the Tax Among the Different States from
Which Sales are Made into Illinois

SUBPART I: PENALTIES, INTEREST, STATUTE OF LIMITATIONS
AND ADMINISTRATIVE PROCEDURES

Section
150.1001 General Information

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SUBPART J: TRADED-IN PROPERTY

Section

150.1101 General Information

SUBPART K: INCORPORATION OF ILLINOIS
RETAILERS' OCCUPATION TAX REGULATIONS BY REFERENCE

Section

150.1201 General Information

SUBPART L: BOOKS AND RECORDS

Section

150.1301 Users' Records

150.1305 Retailers' Records

150.1310 Use of Signs to Prove Collection of Tax as a Separate Item

150.1315 Consequence of Not Complying with Requirement of Collecting Use Tax
Separately From the Selling Price

150.1320 Incorporation by Reference

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

150.1401 Claims for Credit – Limitations – Procedure

150.1405 Disposition of Credit Memoranda by Holders Thereof

150.1410 Refunds

150.1415 Interest

150.TABLE A Tax Collection Brackets

AUTHORITY: Implementing the Use Tax Act [35 ILCS 105] and authorized by Section 2505-90 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-90].

SOURCE: Adopted August 1, 1955; amended at 4 Ill. Reg. 24, p. 553, effective June 1, 1980; amended at 5 Ill. Reg. 5351, effective April 30, 1981; amended at 5 Ill. Reg. 11072, effective October 6, 1981; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 3704, effective March 12, 1984; amended at 8 Ill. Reg. 7278, effective May 11, 1984; amended at 8 Ill. Reg. 8623,

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effective June 5, 1984; amended at 11 Ill. Reg. 6275, effective March 20, 1987; amended at 14 Ill. Reg. 6835, effective April 19, 1990; amended at 15 Ill. Reg. 5861, effective April 5, 1991; emergency amendment at 16 Ill. Reg. 14889, effective September 9, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1947, effective February 2, 1993; amended at 18 Ill. Reg. 1584, effective January 13, 1994; amended at 20 Ill. Reg. 7019, effective May 7, 1996; amended at 20 Ill. Reg. 16224, effective December 16, 1996; amended at 22 Ill. Reg. 21670, effective November 25, 1998; amended at 24 Ill. Reg. 10728, effective July 7, 2000; amended at 25 Ill. Reg. 953, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1821, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 5059, effective March 23, 2001; amended at 25 Ill. Reg. 6540, effective May 3, 2001; amended at 25 Ill. Reg. 10937, effective August 13, 2001; amended at 26 Ill. Reg. 971, effective January 15, 2002; amended at 26 Ill. Reg. 9902, effective June 24, 2002; amended at 27 Ill. Reg. 1607, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 11209, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15266, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7079, effective April 26, 2005; emergency amendment at 32 Ill. Reg. 8806, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 17554, effective October 24, 2008; amended at 32 Ill. Reg. 19149, effective December 1, 2008; amended at 38 Ill. Reg. 20022, effective October 1, 2014.

SUBPART B: DEFINITIONS

Section 150.201 General Definitions

- f) **Department**
"Department" means the Department of Revenue.
- g) **Person**
"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, conservator or other representative appointed by order of any court.
- b) **Purchase at Retail**
"Purchase at retail" means the acquisition of the ownership of, or title to, tangible personal property through a sale at retail.
- e) **Purchaser**
"Purchaser" means anyone who, through a sale at retail, acquires the ownership of tangible personal property for a valuable consideration.

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- h) **Retailer**
"Retailer" means and includes every person engaged in the business of selling tangible personal property for use, and not for resale in any form. Effective October 1, 1974, a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 ~~U.S.C.A.~~ 3001 et seq.) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act is not a retailer under the Use Tax Act with respect to ~~those~~ transactions.
- 1) **Nonprofit Sellers**
A person whose activities are organized and conducted primarily as a not-for-profit service enterprise, and who engages in selling tangible personal property at retail (whether to the public or merely to members and their guests), shall be deemed to be a retailer with respect to ~~those~~ transactions, excepting only a person organized and operated exclusively for charitable, religious or educational purposes to the extent of sales by ~~that~~ person to its members, students, patients or inmates of tangible personal property to be used primarily for the purposes of ~~that~~ person, or to the extent of sales by ~~that~~ person of tangible personal property ~~that~~ is not sold or offered for sale by persons organized for profit.
- 2) **Special Order Sales**
A person who holds himself or herself out as being engaged (or who habitually engages) in selling tangible personal property at retail shall be deemed to be a retailer ~~under this definition hereunder~~ with respect to ~~those~~ sales (and not primarily in a service occupation), notwithstanding the fact that ~~the~~ person designs and produces ~~that~~ tangible personal property on special order for the purchaser and in such a way as to render the property of value only to ~~that~~ purchaser, if ~~the~~ tangible personal property so produced on special order serves substantially the same function as stock or standard items of tangible personal property that are sold at retail.
- 3) **When Construction Contractor or Real Estate Developer is a Retailer**
A construction contractor or real estate developer is a retailer under the Use Tax Act to the same extent to which he or she is a retailer under the Retailers' Occupation Tax Act, as described in 86 Ill. Adm. Code~~Section~~

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130.1940 ~~of the Retailers' Occupation Tax.~~i) ~~Retailer Maintaining a Place of Business in This State~~

1) "Retailer maintaining a place of business in this State", or any like term, shall mean and include any retailer:

~~Having~~having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether ~~that such~~ place of business or agent or other representative is located here permanently or temporarily, or whether ~~the such~~ retailer or subsidiary is licensed to do business in this State;

- 2) *Soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State;*
- 3) *Pursuant to a contract with a broadcaster or publisher located in this State, soliciting orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions;*
- 4) *Soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this State or benefits from the location in this State of authorized installation, servicing, or repair facilities;*
- 5) *Being owned or controlled by the same interests which own or control any retailer engaging in business in the same or similar line of business in this State;*
- 6) *Having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section;*

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- 7) Pursuant to a contract with a cable television operator located in this State, soliciting orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this State; or
- 8) ~~Engaging~~ *engaging* in activities in Illinois, which activities in the state in which the retail business engaging in such activities is located would constitute maintaining a place of business in that state. (Section 2 of the Use Tax Act) (~~Ill. Rev. Stat. 1989, ch. 120, par. 439.2~~). For the purpose of determining ~~the~~ state of domicile, the Department will look to the place at which the selling activity takes place. ~~The seller's acceptance of the purchase order or other contracting action in making the sale is the single most important factor in determining selling location.~~

9) It does not matter that an agent may engage in business on his or her own account in other transactions, nor that ~~the~~ agent may act as agent for other persons in other transactions, nor that ~~the agent~~ is not an employee but is an independent contractor acting as agent. The term "agent" is broader than the term "employee". "Agent" includes anyone acting under the principal's authority in an agency capacity.

d) Sale at Retail

"Sale at retail" means any transfer of the ownership of or title to tangible personal property to a purchaser, for the purpose of use, and not for the purpose of resale in any form as tangible personal property to the extent not first subjected to a use for which it was purchased, for a valuable consideration; ~~provided~~: ~~Provided~~ that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing. For this purpose, slag produced as an incident to manufacturing pig iron or steel and sold is considered to be an intentionally produced by-product of manufacturing. "Sale at retail" includes any such transfer made for resale unless made in compliance with Section 2c of the Retailers' Occupation Tax Act [35 ILCS 120], as incorporated by reference into Section 12 of the Use Tax Act [35 ILCS 105]. Transactions whereby the possession of the property is transferred but the seller retains the title as security for payment of the selling price are sales.

e) Selling Price

"Selling price" means the consideration for a sale valued in money whether

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received in money or otherwise, including cash, credits, property other than as ~~hereinafter~~ provided in this definition, and services, but not including the value of or credit given for traded-in tangible personal property ~~when~~where the item that is traded-in is of like kind and character as that which is being sold, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever. "Selling price" does not include interest or finance charges ~~that~~which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's tax liability under the Retailers' Occupation Tax Act, or on account of the seller's duty to collect, from the purchaser, the tax that is imposed by the Use Tax Act, or except as otherwise provided with respect to any cigarette tax imposed by a home rule unit, on account of the seller's tax liability under any local occupation tax administered by the Department, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit on account of the seller's duty to collect from the purchasers, the tax that is imposed under any local use tax administered by the Department ~~or on account of the seller's tax liability under the Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1), on account of the seller's tax liability under the Non-Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1.3), on account of the seller's tax liability under the Home Rule County Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 34, par. 5-1006), on account of the seller's tax liability under Section 4 of the Water Commission Act of 1985 (Ill. Rev. Stat. 1989, ch. 111 $\frac{2}{3}$, par. 254), on account of the seller's tax liability under Section 5.01(b) of the Local Mass Transit District Act (Ill. Rev. Stat. 1989, ch. 111 $\frac{2}{3}$, par. 355.01) or Section 4.03(e) of the Regional Transportation Authority Act (Ill. Rev. Stat. 1989, ch. 111 $\frac{2}{3}$, par. 704.03).~~ "Selling price" shall include charges that are added to prices by sellers on account of the seller's liability under the Cigarette Tax Act ~~(Ill. Rev. Stat. 1989, ch. 120, par. 453.1 et seq.)~~ on account of the seller's duty to collect, from the purchaser, the tax imposed under the Cigarette Use Tax Act ~~(Ill. Rev. Stat. 1989, ch. 120, par. 453.31 et seq.)~~ and on account of the seller's duty to collect, from the purchaser, any cigarette tax imposed by a home rule unit. The phrase "like kind and character" shall be liberally construed (including but not limited to any form of motor vehicle for any form of motor vehicle, or any kind of farm or agricultural implement for any other kind of farm or agricultural implement), while not including a kind of item which, if sold at retail by that retailer, would be exempt from Retailers' Occupation Tax and Use Tax as an isolated or occasional sale.

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- a) Use
- "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it does not include the sale of ~~the~~such property in any form as tangible personal property in the regular course of business to the extent that ~~the~~such property is not first subjected to a use for which it was purchased, and does not include the use of ~~that~~such property by its owner for demonstration purposes; ~~provided:~~ Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing. "Use" does not mean the interim use of tangible personal property by a retailer before he or she sells such tangible personal property and does not mean the physical incorporation of tangible personal property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, into other tangible personal property:
- 1) ~~that~~which is sold in the regular course of business; or
- 2) ~~that~~which the person incorporating ~~the~~such ingredient or constituent therein has undertaken at the time of ~~such~~ purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois; ~~provided:~~ Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing.

(Source: Amended at 38 Ill. Reg. 20022, effective October 1, 2014)

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- 1) Heading of the Part: Service Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 160
- 3) Section Number: 160.105 Adopted Action: Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-795
- 5) Effective Date of Rule: October 1, 2014
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 13198; June 27, 2014.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Only grammatical and technical changes were made. No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This amendment will make the regulations governing the Service Use Tax Act consistent with the decision of the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer* (2013 IL 115130) and the regulations governing the various Retailers' Occupation Tax Acts for local taxing jurisdictions, such as the Home Rule County Retailers' Occupation Tax Act (86 Ill. Adm. Code 220.115).

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St., 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 160
SERVICE USE TAX

Section	
160.101	Nature of the Tax
160.105	Definitions
160.110	Kinds of Uses And Users Not Taxed
160.111	Commercial Distribution Fee Sales Tax Exemption
160.115	Collection Of The Service Use Tax By Servicemen
160.116	Persons Who Lease Tangible Personal Property to Exempt Hospitals
160.117	Persons Who Lease Tangible Personal Property to Governmental Bodies
160.120	Receipt For The Tax (Repealed)
160.125	Special Information For Users
160.130	Registration Of Servicemen
160.135	Serviceman's Return
160.140	Penalties, Interest, Statute of Limitations and Administrative Procedures
160.145	Incorporation Of Illinois Service Occupation Tax Regulations By Reference
160.150	Claims To Recover Erroneously Paid Tax – Limitations – Procedures
160.155	Disposition Of Credit Memoranda By Holders Thereof
160.160	Refunds
160.165	Interest

AUTHORITY: Implementing the Service Use Tax Act [35 ILCS 110] and authorized by Section 2505-100 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-100].

SOURCE: Adopted May 21, 1962; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 8619, effective June 5, 1984; amended at 11 Ill. Reg. 5322, effective March 17, 1987; amended at 11 Ill. Reg. 9963, effective May 8, 1987; amended at 13 Ill. Reg. 9399, effective June 6, 1989; amended at 15 Ill. Reg. 5845, effective April 5, 1991; amended at 18 Ill. Reg. 1557, effective January 13, 1994; amended at 20 Ill. Reg. 7015, effective May 7, 1996; amended at 20 Ill. Reg. 16219, effective December 16, 1996; amended at 24 Ill. Reg. 8135, effective May 26, 2000; amended at 25 Ill. Reg. 5015, effective March 23, 2001; amended at 26 Ill. Reg. 4929, effective March 15, 2002; amended at 27 Ill. Reg. 822, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11216, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15275, effective November 3, 2004,

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for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7088, effective April 26, 2005; amended at 38 Ill. Reg. 20034, effective October 1, 2014.

Section 160.105 Definitions

a) For definitions of terms other than "Use", "Purchased from a Serviceman", "Purchaser", "Selling Price", and "Serviceman maintaining a place of business in this State", see Section 140.201 of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140.201).

"Act" means the Service Use Tax Act [35 ILCS 110].

- e) "Purchased from a serviceman" means the acquisition of the ownership of, or title to, tangible personal property through a sale of service.
- ⊕ "Purchaser" means any person who, through a sale of service, acquires the ownership of, or title to, any tangible personal property.
- e) "Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges ~~that which~~ appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the purchaser, the tax that is imposed by ~~the~~this Act. For purposes of calculating the serviceman's tax base, the selling price shall not be less than the cost price to the serviceman of the tangible personal property transferred to the service customer.
- ⊕ *"Serviceman maintaining a place of business in this State", or any like term, means and includes any serviceman having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the serviceman or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such serviceman or subsidiary is licensed to do business in this State; soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State; pursuant to a*

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contract with a broadcaster or publisher located in this state, soliciting orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions; soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this State of authorized installation, servicing, or repair facilities; being owned or controlled by the same interests which own or control any retailer engaging in business in the same or similar line of business in this State; having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section; pursuant to a contract with a cable television operator located in this State, soliciting orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this State, or engaging in activities in Illinois ~~that~~^{which} would, in the state in which the service business engaging in ~~these~~^{such} activities is located, constitute maintaining a place of business in that state [35 ILCS 110/2]. For the purpose of determining ~~the~~^{such} state of location, the Department will look to the place at which the selling activity takes place. ~~The seller's acceptance of the purchase order or other contracting action in making the sale is the single most important factor in determining selling location.~~

- b) "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him or her of that property in any form as tangible personal property in the regular course of business. "Use" does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property;
- 1) ~~that~~^{which} is sold in the regular course of business; or
- 2) ~~that~~^{which} the person incorporating ~~the~~^{such} ingredient or constituent ~~therein~~ has undertaken at the time of ~~such~~ purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois.

(Source: Amended at 38 Ill. Reg. 20034, effective October 1, 2014)

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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>Adopted Action:</u>
1030.6	Amendment
1030.7	Amendment
1030.Appendix A	Amendment
- 4) Statutory Authority: 625 ILCS 5/6-105.1
- 5) Effective Date of Rule: October 1, 2014
- 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 rule, including any material incorporated by reference, is on file in the Department's Division of Driver's Services, and is available for public inspection.
- 9) Notices of Proposed published in the *Illinois Register*: 38 Ill. Reg. 13734; July 7, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between Proposal and Final Version: Appendix A was added at 2nd notice to correct an error that occurred in a previous rulemaking. The changes to Appendix A were previously approved by JCAR. However, two rules amending Appendix A were pending at the same time. As a result, an outdated version of Appendix A was utilized and the changes to Appendix A herein were not properly adopted.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1030.92	Amendment	38 Ill. Reg. 18148; August 29, 2014

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15) Summary and Purpose of Rulemaking: The rule eliminates the requirement that applicants for a Visa-status TVDL present a letter from the Social Security Administration that indicates the applicant is not eligible for a social security number (SSN) and instead affirm on the TVDL application that the applicant is not eligible for a SSN at the time the applicant applies for a TVDL, which will be consistent with the process used for non-Visa status TVDL applicants. The rule also clarifies that the applicant cannot be eligible for a SSN at the time the person applies for the TVDL.

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

Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462

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

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

Section	
1030.1	Definitions
1030.5	Procedure for Obtaining a Driver's License
1030.6	Procedure for Obtaining a Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a)
1030.7	Procedure for Obtaining a Non-Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a-5)
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 (Renumbered)
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
1030.66	Adult Driver Education
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

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- 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
1030.91 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 – Applicants for a Driver's License, Instruction Permit, Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a) or Visa Status Temporary Visitor's Instruction Permit
1030.APPENDIX C Acceptable Identification Documents – Applicants for a Non-Visa Status Temporary Visitor's Driver's License or Non-Visa Status Temporary Visitor's Instruction Permit Pursuant to IVC Section 6-105.1(a-5)

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

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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 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

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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 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. 7776, effective May 22, 2013; amended at 37 Ill. Reg. 14176, effective September 1, 2013; amended at 37 Ill. Reg. 19342, effective November 28, 2013; amended at 38 Ill. Reg. 7946, effective March 28, 2014; emergency amendment at 38 Ill. Reg. 8429, effective April 4, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 12515, effective July 1, 2014; amended at 38 Ill. Reg. 16366, effective July 21, 2014; amended at 38 Ill. Reg. 20039, effective October 1, 2014.

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Section 1030.6 Procedure for Obtaining a Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a)

- a) Any foreign national who wishes to obtain a temporary visitor's driver's license (TVDL), pursuant to IVC Section 6-105.1(a), shall go to one of the designated TVDL Secretary of State Driver Services Facilities located throughout the State. An application form, provided by the Secretary of State pursuant to IVC Section 6-106, shall be completed by the applicant. The questions contained on the application form are provided in Appendix A. The applicant shall also provide a Driver Services Facility employee with acceptable forms of identification described in Appendix B to establish the applicant's name, date of birth, signature for comparison, Illinois temporary residency, and authorization of legal presence in this country. The applicant shall also provide a government-issued photo identification document and shall affirm under penalty of perjury that he/she is at the time of application ineligible for a social security number. ~~documentation from the Social Security Administration verifying ineligibility for a social security number.~~
- b) A TVDL shall only be issued to an individual who is authorized to reside in this country for one or more years and has at least six months of authorized presence remaining at the time of application. Individuals currently holding a TVDL who have been granted a temporary extension to remain in this country pending a decision on a request for a status change, upon presentation of documents issued by USCIS, may be issued a TVDL for the period of the temporary extension.
- c) The applicant shall take the following tests as required in IVC Section 6-109:
- 1) A vision test as provided in Sections 1030.70 and 1030.75;
 - 2) A road test, if required, as provided in Section 1030.85 (exemptions to the road test requirement are provided in Section 1030.88); and
 - 3) A written test, if required, as provided in Section 1030.80.
- d) Applicants who are 16 or 17 years of age and not legally emancipated by marriage shall not be issued a TVDL without the written consent of the applicant's parent, legal guardian or other responsible adult, regardless of whether the required written consent also accompanied the person's previous application for an

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instruction permit and, in accordance with IVC Section 6-107(b), the applicant has:

- 1) Held a valid instruction permit for a minimum of 9 months;
 - 2) Passed an approved driver education course and submitted proof of having passed the course as may be required;
 - 3) Submitted, on a form prepared or approved by the Secretary of State, certification by the parent of the applicant, the legal guardian having custody of the applicant, or, in the event there is no parent or legal guardian, by another responsible adult, that the applicant has had a minimum of 50 hours, at least 10 hours of which have been at night, of behind-the-wheel practice time and is sufficiently prepared and able to safely operate a motor vehicle. The 50 hours shall be in addition to the required hours spent with a driver education instructor. The person completing the certification shall, upon signing the certification, swear under penalty of perjury that everything contained within the certification is true and correct.
- e) Applicants who are 18, 19 or 20 years of age who have not previously been licensed and who have not successfully completed an approved driver education course or the classroom portion of an approved driver education course shall not be issued a TVDL unless the applicant has successfully completed an adult driver education course offered by an adult driver education course provider and proof of that completion has been submitted to the Secretary by the adult driver education course provider.
- f) A TVDL applicant shall have his/her photograph taken, unless exempted by Section 1030.90.
- g) A TVDL shall only be issued in Class D, L or M, as established in Section 1030.30.
- h) A TVDL shall not be issued to the applicant at the Secretary of State Driver Services facility, but shall be centrally issued and mailed to the applicant at the address provided on the TVDL application. A dated receipt shall be issued to the applicant.

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- i) Each original TVDL shall expire 3 years from the date of issuance or at the time the individual's authorization to remain in this country expires, whichever is earlier. Except, the TVDL of an individual 81 years of age or older shall expire in accordance with IVC Section 6-115(g) or at the time the individual's authorization to remain in this country expires, whichever is earlier.
- j) Each renewal TVDL shall expire no more than 3 years from the expiration date of the current license or at the time the individual's authorization to remain in this country expires, whichever is earlier. Except, the TVDL of an individual 81 years of age or older shall expire in accordance with IVC Section 6-115(g) or at the time the individual's authorization to remain in this country expires, whichever is earlier.
- k) The fees collected for the issuance of an original, renewal, duplicate or corrected TVDL shall be in accordance with IVC Section 6-118.
- l) Any person who wishes to renew a TVDL shall go to one of the designated Secretary of State Driver Services Facilities located throughout the State no more than 90 days prior to the expiration date of the current TVDL. An applicant for renewal shall comply with the provisions of subsection (a) of this Section. The applicant shall also be retested in accordance with IVC Section 6-109.
- m) The Secretary of State shall not send a renewal notice to the holder of a TVDL.
- n) The design and content of a TVDL shall be in accordance with IVC Sections 6-105.1 and 6-110 and Section 1030.90. The license shall be distinctive in nature to identify it as a TVDL and shall contain the phrase "not valid for identification".
- o) Each TVDL issued to applicants under 21 years of age shall be in accordance with IVC Sections 6-107.3 and 6-110(e) and (e-1). A TVDL issued to an individual under the age of 21 years shall expire 3 years from the issue date or at the time the individual's authorization to remain in this country expires, whichever is earlier.
- p) A foreign national who is issued a TVDL shall not be required to surrender his/her foreign country driver's license.
- q) A Central Unit will be established within the Driver Services Department. The responsibilities of this Central Unit shall be to provide assistance to Driver Services Facility employees responsible for the issuance of a TVDL and to

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individuals applying for a TVDL; resolve cases in which the USCIS was unable to provide first level verification of USCIS documents, via the Systematic Alien Verification for Entitlements (SAVE) Program, presented by TVDL applicants at the Driver Services Facility level; perform liaison services to USCIS; and provide written notification of an applicant's eligibility or ineligibility for a TVDL.

- 1) When an applicant appears at one of the designated Driver Services Facilities and provides the necessary documents to prove identity and legal presence, a facility employee will begin the process by initiating an automated inquiry via the SAVE Program to verify the information on the USCIS documents. Upon receipt of a verification response from the SAVE Program, the facility employee will begin the TVDL application process. If the facility employee receives the response of "initiate additional verification", additional information is submitted to USCIS via the SAVE Program and copies of the applicant's documents are forwarded to the Central Unit for monitoring. The applicant will be advised that he or she will receive written notification from the Central Unit regarding his or her eligibility for a TVDL.
- 2) A response to a second request for verification of USCIS documents via the SAVE Program generally takes 3 to 5 days. Upon receipt of a response from the second verification request via the SAVE Program, the Central Unit will send a letter to the applicant informing the applicant of eligibility or ineligibility for a TVDL.
- 3) If the Central Unit receives a response of "Need Copies of Docs" from USCIS via the SAVE Program, a third, manual verification process must be completed. This requires photocopies of the documents submitted for identification, accompanied by a USCIS G-845 Form (request for verification of documentation of alien status), to be forwarded to USCIS in Chicago, Illinois. Upon receipt of a written response from USCIS, the Central Unit will send a letter to the applicant informing the individual of eligibility or ineligibility for a TVDL.

(Source: Amended at 38 Ill. Reg. 20039, effective October 1, 2014)

Section 1030.7 Procedure for Obtaining a Non-Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a-5)

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- a) An applicant who wishes to obtain an original TVDL, renew a TVDL, or obtain a corrected TVDL, pursuant to IVC Section 6-105.1(a-5), must make an appointment, via telephone or the Secretary of State's official website, to visit one of the designated TVDL Secretary of State Driver Services Facilities located throughout the State. The Secretary of State will limit to 3 the number of appointments that may be made by any one individual or entity or from any one internet protocol address within a 24-hour period, except that the limit of 3 appointments may be waived by the Secretary of State for not-for-profit entities that assist the affected public in scheduling appointments. In the event the Secretary discovers appointments have been made in violation of a policy limiting the number of appointments within a 24-hour period, the Secretary may cancel the appointments exceeding the maximum number allowed. Based on the operational needs of the office, the Secretary may eliminate the requirement for appointments. An applicant who wishes to obtain a duplicate TVDL shall visit any TVDL facility located throughout the State. An application form, provided by the Secretary of State pursuant to IVC Section 6-106, shall be completed by the applicant. The questions contained on the application form are provided in Appendix A.
- b) An applicant for an original, renewal, duplicate or corrected TVDL shall provide acceptable forms of identification as defined in Appendix C to establish the applicant's name, date of birth, signature for comparison, current Illinois residence address, and residency in Illinois for a period in excess of one year. The applicant shall affirm under penalty of perjury that he/she is at the time of application ineligible to obtain a social security number and shall submit either a valid, unexpired passport for the applicant's country of citizenship or a valid, unexpired consular identification document, as defined by Section 5 of the Consular Identification Document Act [5 ILCS 230/5], issued by the consulate of the applicant's country of citizenship and, if a new applicant, must submit a completed verification of residency form.
- c) The applicant shall take the following tests as required in IVC Section 6-109:
- 1) A vision test as provided in Sections 1030.70 and 1030.75;
 - 2) A road test, if required, as provided in Section 1030.85 (exemptions to the road test requirement are provided in Section 1030.88); and
 - 3) A written test, if required, as provided in Section 1030.80.

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- d) Applicants who are 16 or 17 years of age and not legally emancipated by marriage shall not be issued a TVDL without the written consent of the applicant's parent, legal guardian or other responsible adult, regardless of whether the required written consent also accompanied the person's previous application for an instruction permit and, in accordance with IVC Section 6-107(b), the applicant has:
- 1) Held a valid instruction permit for a minimum of 9 months;
 - 2) Passed an approved driver education course and submitted proof of having passed the course as may be required;
 - 3) Submitted, on a form prepared or approved by the Secretary of State, certification by the parent of the applicant, the legal guardian having custody of the applicant, or, in the event there is no parent or legal guardian, by another responsible adult, that the applicant has had a minimum of 50 hours, at least 10 hours of which have been at night, of behind-the-wheel practice time and is sufficiently prepared and able to safely operate a motor vehicle. The 50 hours shall be in addition to the required hours spent with a driver education instructor. The person completing the certification shall, upon signing the certification, swear under penalty of perjury that everything contained within the certification is true and correct.
- e) Applicants who are 18, 19 or 20 years of age who have not previously been licensed and who have not successfully completed an approved driver education course or the classroom portion of an approved driver education course shall not be issued a TVDL unless the applicant has successfully completed an adult driver education course offered by an adult driver education course provider and proof of that completion has been submitted to the Secretary by the adult driver education course provider.
- f) A TVDL applicant shall have his/her photograph taken, unless exempted by Section 1030.90.
- g) A TVDL shall only be issued in Class D, L or M, as established in Section 1030.30.

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- h) A TVDL shall not be issued to the applicant at the Secretary of State Driver Services facility, but shall be centrally issued and mailed to the applicant at the address provided on the TVDL application. A dated receipt shall be issued to the applicant.
- i) Each original TVDL shall expire 3 years from the date of issuance, except that a TVDL issued to an applicant 81 years of age or older shall expire in accordance with IVC Section 6-115(g).
- j) An applicant for a renewal TVDL shall be retested in accordance with IVC Section 6-109.
- k) Each renewal TVDL shall expire no more than 3 years from the expiration date of the current license, except that a TVDL issued to an applicant 81 years of age or older shall expire in accordance with IVC Section 6-115(g).
- l) The Secretary of State shall not send a renewal notice to the holder of a TVDL.
- m) The design and content of a TVDL shall be in accordance with IVC Sections 6-105.1 and 6-110 and Section 1030.90. The license shall be distinctive in nature to identify it as a TVDL and shall contain the phrase "not valid for identification".
- n) The design and content of a TVDL issued to applicants under 21 years of age shall be in accordance with IVC Sections 6-107.3 and 6-110(e) and (e-1).
- o) The fees collected for the issuance of an original, renewal, duplicate or corrected TVDL shall be in accordance with IVC Section 6-118.
- p) An applicant for a TVDL that is male and is between the ages of 18 and 25 is not exempt from the requirement to register with the United States Selective Service System, in accordance with IVC Section 6-106.

(Source: Amended at 38 Ill. Reg. 20039, effective October 1, 2014)

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Section 1030.APPENDIX A Questions Asked of a Driver's License Applicant

The following questions shall appear on or be provided with an application for a driver's license:

If you are applying for an Identification (ID) Card review questions 1 and 2; for a Driver's License, review questions 1 through 7; for a Commercial Driver's License, review questions 1 through 10.

- 1) Is your driver's license or ID card or privilege to obtain a license or ID card suspended, revoked, canceled or refused in any state or country under this or any other name? (If yes, a letter of clearance is required.)
- 2) Do you presently hold a valid driver's license or ID card in this or any other state?
- 3) Is your driver's license being held by a court in lieu of bail?
- 4) Are you currently under a court order of guardianship? (If yes, a medical report is required.)~~Has a court found you to have a mental disability or disease or has a court committed you to a mental health facility? (If yes, copies of related court order and/or physician's statement will be required.)~~
- 5) Do you have any condition that might cause a temporary loss of consciousness? (If yes, a physician's statement and a signed medical agreement are required.)
- 6) Do you have any mental or physical condition that might interfere with safe driving? (If yes, a physician's statement and a signed medical agreement are required.)
- 7) Do you use any drugs, including prescription medication, or alcohol to an extent that they impair your driving ability or has a court committed you to a mental health facility within the last 4 years? (If yes, a medical report is required.)~~Do you use any drugs, including prescription medication, or alcohol to an extent that they impair your driving ability? (If yes, a physician's statement and a signed medical agreement may be required.)~~
- 8) If you are under age 18 and this is your initial application for a Graduated Driver's License, have you been issued any citation for which a disposition

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has not yet been rendered by a court of law?

- 9) Are your commercial driver's license privileges currently disqualified or subject to an out-of-service order?
- 10) Do you certify that you meet the "Qualifications of Driver's" portion of Part 391 of the Federal Motor Carrier Safety Regulations and operate in non-excepted interstate commerce? (If the applicant answers yes to this question, the applicant checks a box marked "NI". If the applicant answers no to this question, the applicant must check one of 3 boxes that set forth the type of driving in which the applicant will engage.)
- 11) Do you certify that you meet the hearing requirements outlined in 49 CFR 391.41(b)(11)?

I understand that my social security number will be disclosed to other states pursuant to the Commercial Motor Vehicle Safety Act of 1986 (applies only to CDL applicants).

(Source: Amended at 38 Ill. Reg. 20039, effective October 1, 2014)

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- 1) Heading of the Part: Illinois Safety Responsibility Law
- 2) Code Citation: 92 Ill. Adm. Code 1070
- 3) Section Number: 1070.110 Adopted Action:
Amendment
- 4) Statutory Authority: 625 ILCS 5/7-708
- 5) Effective Date of Rule: October 1, 2014
- 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 rule, including any material incorporated by reference, is on file in the Department's Division of Driver's Services, and is available for public inspection.
- 9) Notices of Proposed published in the *Illinois Register*: 38 Ill. Reg. 12826, June 20, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rule amends the definition of "certification" relative to the transmission of a request from the Department of Healthcare and Family Service (DHFS) to the Secretary of State to suspend the driver's license of a person who is more than 90 days in arrearage of a court order of child support (in addition to an administrative order of child support). 625 ILCS 5/7-702(c) allow DHFS to certify those cases to the Secretary of State, but the rule inadvertently omitted court orders.
- 16) Information and questions regarding this adopted rule shall be directed to:

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Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1070
ILLINOIS SAFETY RESPONSIBILITY LAW

Section	
1070.10	Forms of Security
1070.20	Future Proof
1070.30	Installment Agreements
1070.40	Disposition of Security
1070.50	Failure to Satisfy Judgment
1070.60	Release From Liability
1070.70	Incomplete Unsatisfied Judgment
1070.80	Driver's License Restriction for Exclusive Operation of Commercial Vehicles
1070.90	Dormant and Dead Judgments
1070.100	Bankruptcy
1070.110	Illinois Safety and Family Financial Responsibility Law
1070.120	Nonresidents and Former Residents; When Proof Not Required

AUTHORITY: Implementing and authorized by the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/Ch. 7].

SOURCE: Filed and effective December 17, 1971; codified at 6 Ill. Reg. 12674; repealed at 7 Ill. Reg. 13678, effective October 14, 1983; New Part adopted at 11 Ill. Reg. 20215, effective November 30, 1987; amended at 14 Ill. Reg. 6859, effective April 24, 1990; amended at 14 Ill. Reg. 10107, effective June 12, 1990; amended at 15 Ill. Reg. 15083, effective October 8, 1991; amended at 16 Ill. Reg. 2172, effective January 24, 1992; amended at 17 Ill. Reg. 8517, effective May 27, 1993; amended at 18 Ill. Reg. 10909, effective June 28, 1994; amended at 20 Ill. Reg. 398, effective December 20, 1995; amended at 20 Ill. Reg. 7956, effective May 30, 1996; amended at 24 Ill. Reg. 1672, effective January 14, 2000; emergency amendment at 27 Ill. Reg. 14361, effective August 20, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18458, effective November 24, 2003; emergency amendment at 30 Ill. Reg. 7974, effective April 14, 2006, for a maximum of 150 days; emergency expired September 11, 2006; amended at 30 Ill. Reg. 6392, effective April 12, 2007; amended at 32 Ill. Reg. 16507, effective September 25, 2008; amended at 32 Ill. Reg. 19163, effective November 25, 2008; amended at 35 Ill. Reg. 1790, effective January 13, 2011; amended at 36 Ill. Reg. 5575, effective March 26, 2012; amended at 37 Ill. Reg. 3319, effective February 28, 2013; amended at 38 Ill. Reg. 6119, effective February 27, 2014; amended at 38 Ill. Reg. 20054, effective October 1, 2014.

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Section 1070.110 Illinois Safety and Family Financial Responsibility Law

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

"Administrative Order of Support" – an order for the support of dependent children issued by an administrative body of this or any other state.

"Cancellation" – the annulment or termination by formal action of the Secretary of State of a person's Family Financial Responsibility Driving Permit (FFRP) because of some error or defect in the FFRP or because the permittee is in some form of violation of any of the requirements contained in the Illinois Vehicle Code or Illinois Administrative Code.

"Certification" – the electronic transmission to the Department from the Illinois Department of Healthcare and Family Services when a person is 90 days or more delinquent in payment of support under an order of support entered by [a court or](#) an administrative body of this or any other state.

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

"Department of Healthcare and Family Services" or "HFS" – the Illinois Department of Healthcare and Family Services.

"Family Financial Responsibility Driving Permit" or "FFRP" – a document issued to persons who have had their full driving privileges suspended that grants and specifies limited driving privileges as specified in IVC Section 7-702.1.

"Illinois Vehicle Code", "Vehicle Code" or "IVC" – 625 ILCS 5.

"Invalidation" – to render a license or permit no longer valid for the purpose it was issued, as specified in IVC Section 6-301.3.

"Law Enforcement" – a police officer, sheriff, coroner, municipal prosecutor, or state's attorney.

"Law Enforcement Sworn Report" – a confirmation of correctness and truth by an affidavit, oath or deposition, or a verification by certification, executed by a law

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enforcement officer, as specified in IVC Section 11-501.1(d) and Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109].

"Received by the Department of Administrative Hearings" – a written request for an administrative hearing that is received and date-file stamped at the Department of Administrative Hearings or any formal hearing location .

"Recipient Identification Number" or "RIN" – the file number used by the Department of Healthcare and Family Services to identify child support cases.

"Stay Order" – the temporary suspension of the regular order of proceeding in a cause, by direction or order of the court.

"Visitation Order" – the order of the court involving visitation rights for family members of minor children.

- b) Suspension of Driving Privileges
- 1) The Department shall suspend the driver's license of an obligor, pursuant to IVC Section 7-702(a) or (b), upon receipt of an authenticated report as set forth in IVC Section 7-703. The authenticated report must be on a form prescribed by the Secretary of State and include the obligor's name, address, driver's license number, date of birth and gender, the date and county in which the order was entered, case number, judge's signature, court seal or file stamp, and date certified.
 - 2) The Department shall enter an order of suspension pursuant to IVC Section 7-702(c) upon receipt of certification by HFS that the obligor is 90 days or more delinquent in payment of support under an order of support issued by a court or an administrative body of this or any other state. The certification shall include the obligor's name, address, driver's license number and/or social security number and case number. If the certification does not contain the driver's license number or social security number of the obligor, the certification shall include the obligor's name, date of birth, gender and case number.
 - 3) Any submitted authenticated report or Record of Nonpayment of Court-Ordered Child Support that is defective by not containing sufficient information or that has been completed in error shall not be entered onto

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the obligor's driving record, but shall be returned to the court of jurisdiction and shall indicate why the order of suspension cannot be entered.

- 4) Any certification from HFS that contains insufficient data or has been completed in error shall not be entered onto the obligor's driving record, but shall be electronically returned to HFS with an indication as to why the order of suspension cannot be entered.
 - 5) The Department shall suspend the driver's license of an individual, pursuant to IVC Section 7-702(d), upon receipt of an authenticated report as set forth in IVC Section 7-703 that indicates the court has adjudicated the individual as engaging in visitation abuse. The authenticated report must be on a form prescribed by the Secretary of State and include the name, address, driver's license number, date of birth and gender, the date and county in which the order was entered, case number, name of the judge entering the order, court seal or file stamp, and date certified.
- c) Termination of Suspension
- 1) Upon receipt of an authenticated document, in a form approved by the Department, that the obligor is in compliance with a court order of support or that the order has been stayed by subsequent order of the court, the Department shall terminate the suspension. The authenticated document must include the obligor's name, address, driver's license number, date of birth and gender, the date and county in which the order was entered, case number, judge's signature, and court seal or file stamp.
 - 2) Upon receipt of an electronic certification of compliance from HFS when the person has paid the delinquent support in full or has arranged for payment of the delinquent support and current support obligations in a manner satisfactory to HFS. The certification must include the person's name, address, date of birth, gender and RIN.
 - 3) Upon receipt of an authenticated document, in a form approved by the Department, that the individual is in compliance with the visitation order or that the order has been stayed by subsequent order of the court, the Department shall terminate the suspension. The authenticated document must include the individual's name, address, driver's license number, date

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of birth and gender, the date and county in which the order was entered, case number, name of the judge entering the order, and court seal or file stamp.

- d) Family Financial Responsibility Permits (FFRP)
 - 1) The Department shall enter an FFRP pursuant to IVC Section 7-702.1(a) or 7-702.1(a-1) if the following conditions are met:
 - A) The Department receives a certified court order, on a form prescribed by the Secretary of State, from the court of jurisdiction.
 - B) The court order includes: obligor's name or the name of the individual violating the visitation order, address, driver's license number, date of birth and gender, date the order was issued, case number, driver's employer and address if applicable, medical or treatment provider and address if applicable, whether the permit allows the driver to seek employment, hours the driver is permitted to operate a vehicle, routes to be traveled, case number, judge's signature, county in which the order was issued, permit type (original, duplicate or renewal), permit expiration date (maximum duration is one year), and court seal or file stamp.
 - 2) The Department shall enter an FFRP pursuant to IVC Section 7-702.1(b) if the following conditions are met:
 - A) The Department receives an order, on a form prescribed by the Secretary of State, from HFS.
 - B) The HFS order includes: obligor's name, address, driver's license number, date of birth and gender, date the order was issued, obligor's employer and address if applicable, medical or treatment provider and address if applicable, whether the permit allows the obligor to drive to seek employment, hours the obligor is permitted to operate a vehicle, routes to be traveled, RIN, signature of the HFS representative, county in which the order was issued, permit type (original, duplicate or renewal), permit expiration date (maximum duration is one year), and HFS stamp or seal.

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- 3) Any submitted court or HFS order directing the Department to issue an FFRP that contains insufficient data or fails to comply with any provisions of this Part or IVC Article VII shall not be entered to the obligor's driving record, but shall be returned to the court of jurisdiction or HFS, indicating why the FFRP cannot be issued at that time.
- e) Invalidation of FFRP
- 1) Upon receipt of any of the following documents from a circuit clerk, law enforcement agency or the Department of Administrative Hearings within the Office of the Secretary of State, the Department shall invalidate an FFRP:
 - A) a copy of a charging document for reckless homicide resulting from operation of a motor vehicle in violation of Section 9-3 of the Criminal Code [720 ILCS 5/9-3], driving under the influence of alcohol and/or other drugs in violation of IVC Section 11-501 or a similar provision of a local ordinance, driving outside of restrictions of permit in violation of IVC Section 6-113(e), leaving the scene of a motor vehicle accident involving death or personal injury in violation of IVC Section 11-401, or street racing in violation of IVC Section 11-506. The law enforcement officer issuing a citation for any of these offenses shall confiscate the FFRP and forward it, along with the citation, to the clerk of the circuit court of the county in which the citation was issued. The circuit clerk shall forward the FFRP and a facsimile of the officer's citation to the Secretary of State as expeditiously as possible; or
 - B) a report of any disposition of court supervision or conviction for reckless homicide resulting from operation of a motor vehicle in violation of Section 9-3 of the Criminal Code [720 ILCS 5/9-3], driving under the influence of alcohol and/or other drugs in violation of IVC Section 11-501 or a similar provision of a local ordinance, leaving the scene of a motor vehicle accident involving death or personal injury in violation of IVC Section 11-401, or street racing in violation of IVC Section 11-506; or
 - C) Law Enforcement Officer's Sworn Report.

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- 2) The Department shall invalidate an FFRP, upon receipt of a court order indicating the driver is no longer entitled to the permit, in the same manner that a driver's license may be invalidated.
 - 3) The Department shall invalidate an FFRP if the driver's license expires during the term of the FFRP and the driver does not renew his or her driver's license in the manner set forth in IVC Section 6-115.
 - 4) The Department shall invalidate an FFRP, upon request of HFS, when the obligor has not met the conditions of the issuance of the permit, set forth by HFS. Those conditions include, but are not limited to, maintaining and providing to HFS an employment diary as proof that the FFRP is being used to seek employment. The invalidation request shall be submitted to the Department on a form provided by the Department.
- f) Termination of FFRP
- 1) Upon receipt of authenticated documentation from the court that the driver is in compliance with the court order of support or visitation, or that the order of suspension has been stayed, the Department shall terminate the FFRP.
 - 2) Upon receipt of an electronic certification of compliance from HFS, the Department shall terminate the FFRP. The certification of compliance must include the obligor's name, address, driver's license number, date of birth, gender and RIN.
- g) Administrative Hearings
- 1) The obligor or individual violating the visitation order may make a written request for an administrative hearing to contest the family financial responsibility suspension of his or her driver's license, pursuant to IVC Section 2-118.
 - 2) If the Department of Administrative Hearings of the Secretary of State receives a written hearing request by the obligor or individual violating the visitation order, in a manner and form approved by the Secretary of State, prior to the effective date of the family financial responsibility suspension,

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the Department shall stay the suspension in accordance with IVC Section 7-706.

- h) Fees. The Department shall collect a driver's license reinstatement fee as prescribed by IVC Sections 6-118 and 7-707. A reinstatement fee shall be charged for each suspension entered pursuant to IVC Section 7-702. No reinstatement fee shall be charged for individuals suspended pursuant to IVC Section 7-702(d).

(Source: Amended at 38 Ill. Reg. 20054, effective October 1, 2014)

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- 1) Heading of the Part: Aviation Safety
- 2) Code Citation: 92 Ill. Adm. Code 14
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
14.115	Amendment
14.120	Amendment
14.700	Amendment
14.710	Amendment
14.720	Amendment
14.730	Amendment
14.740	Amendment
14.750	Amendment
14.760	Amendment
14.APPENDIX. E, ILLUSTRATION C	Renumbered/New Section
14.APPENDIX. E, ILLUSTRATION D	Renumbered/New Section
14.APPENDIX. E, ILLUSTRATION E	Renumbered
14.APPENDIX. E, ILLUSTRATION F	Renumbered
- 4) Statutory Authority: Implementing and authorized by the Illinois Aeronautics Act [620 ILCS 5]
- 5) Effective Date of Rule: October 2, 2014
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 12836; June 20, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Minor grammatical changes were made between Proposal and Final Version.

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- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking:

At Sections 14.115 and 14.120, the Department is removing reference to the approximate time for FAA approval (in approximately 30-60 days). The FAA currently takes 3-12 months for an airspace determination. The State has no control over this timeframe, so no timeframe should be given in the Department's rules. Otherwise, proponents read the Department's rules and expect a quick turnaround from the FAA.

The previous rules referred to Ultralight/STOL Restricted Landing Areas in the classification and in Illustration A showing Restrictions on Use, yet the design and layout, and obstruction clearances, were not defined. In their previous form, the design and layout, and obstruction clearance requirements for an Ultralight/STOL Restricted Landing Area would be greater than the requirements for a Public or Private Use Ultralight/STOL airport.

The Department is adding Illustration C (Ultralight/STOL Restricted Landing Areas Minimum Dimensional Standards) and Illustration D (Ultralight/STOL Restricted Landing Areas Minimum Separation & Gradient Standards) to Section 14.Appendix E Restricted Landing Area Standards.

At Section 14.700, the previous rule stated that the "word RLA includes RLAs utilizing aircraft having STOL capabilities." To be consistent with wording used in Section 14.500, Airport Classification, the Department is changing this language to say that the "word RLA includes Ultralight/STOL RLAs." Previous rules refer to an Ultralight/STOL Restricted Landing Area, yet minimal dimensional standards were omitted. The Department is, thus, adding the minimal dimensional standards as shown in Section 14.Appendix E, Illustrations C and D.

At Sections 14.710 and 14.720, the Department is adding the minimal dimensional standards as shown in Section 14.Appendix E, Illustrations C and D.

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At Section 14.730, the Department is taking out the language stating that "minimum RLA obstruction clearance standards shall be in accordance with Section 14.Appendix E, Illustration A." The Department is also adding the minimal dimensional standards as shown in Section 14.Appendix E, Illustrations C.

At 14.740; 14.750; 14.760; 14.APPENDIX. E, ILLUSTRATION E; and 14.APPENDIX. E, ILLUSTRATION F, minor editorial corrections are being made.

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

Ms. Linda Schumm
Bureau Chief
Illinois Department of Transportation
Aviation Safety, Division of Aeronautics
11 Langhorne Bond Drive
Springfield IL 62707

217/785-4215

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

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SUBCHAPTER b: AERONAUTICS

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- 14.840 Heliport Marking
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AUTHORITY: Implementing and authorized by the Illinois Aeronautics Act [620 ILCS 5].

SOURCE: Part repealed at 28 Ill. Reg. 2298, effective January 26, 2004; new Part adopted at 28 Ill. Reg. 2302, effective January 26, 2004; amended at 37 Ill. Reg. 15127, effective August 30, 2013; amended at 38 Ill. Reg. 20064, effective October 2, 2014.

SUBPART A: INTRODUCTION

Section 14.115 Application Process for Original Certificate of Approval

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An applicant for an original Certificate of Approval for a new airport or RLA must complete the following process before a Certificate of Approval will be issued by the Division. All forms referenced in this Section may be obtained from the Division at the address noted in Section 14.100(d).

- a) The applicant must personally contact the Division either by phone at 217-785-8516, in writing at 1 Langhorne Bond Drive, Capital Airport, Springfield, IL 62707, or by e-mail at Aero@nt.dot.state.il.us to request an initial inspection of the site proposed to be used for the airport or RLA.
- b) The applicant must include proof of continuing property interests in, and authority to operate, the requested airport or RLA on the subject property as evidenced by:
 - 1) the approval of the property owner (i.e., a letter with the property owner's signature) if not the same as the applicant; or
 - 2) a copy of the deed or long-term lease.
- c) Division personnel will visit the proposed site, as early as Division priorities will allow, to determine if the minimum standards for the operation of an airport or RLA, as prescribed in either Section 14.510(a), 610(a), 710(a) or 810(a), can be achieved.
 - 1) After an initial inspection has been performed and the site is determined to be acceptable under this Part, an Application for Certificate of Approval form (Form AER 2059 for an airport or RLA or Form AER 2060 for a heliport) must be completed and signed, along with FAA Forms 7480-1 (Notice of Landing Area Proposal) and 7480-2 (Sketch), and the originals mailed or hand-delivered to the Division at the address noted in Section 14.100(d).
 - 2) If the proposed site is not acceptable, under this Part, Division personnel will advise the applicant as to what can be done to achieve an acceptable site (e.g., cut trees, clear brush) or suggest an alternative site.
- d) The Division will submit FAA Forms 7480-1 and 7480-2 to the FAA for an airspace determination. Once the Division has received a favorable airspace determination from the FAA ~~(in approximately 30-60 days)~~, the applicant will be notified in writing and the Division will proceed in processing the application for

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Certificate of Approval. If the FAA issues a non-favorable airspace determination, the applicant will be notified in writing as to what criteria needs to be met to receive a favorable determination (e.g., pattern agreement with another airport or RLA, cut trees).

- e) The Division will publish a Notice in the local newspaper, within the county of the proposed site of the airport or RLA, indicating that the Division intends to publish an Order granting or denying a Certificate of Approval, with a copy simultaneously mailed to the applicant. All interested persons may, prior to the publication of the Order in the newspaper, file objections to or comments on the proposed Order by writing to the Division, at the address noted in Section 14.100(d), within 15 days after the date of publication of the Notice in the newspaper. The Division will consider any comments or opposition received within the 15-day period prior to making a decision to grant or deny a Certificate of Approval and prior to publishing the Order. (See Section 60 of the Act.)
- f) If no comments or opposition to the proposed airport or RLA are received by the Division within the 15-day period, the Division will publish an Order in the local newspaper, within the county of the proposed site of the airport or RLA approving the construction, with a copy simultaneously mailed to the applicant. The Order will include the terms and restrictions (e.g., number of based aircraft, restrictions on use) associated with the issuance of the Certificate of Approval, as well as providing information as to a completion date for construction and for the final inspection of the airport or RLA that must occur before the Certificate of Approval will be issued. (See Section 60 of the Act.)
- g) After the Order is published, interested persons may write or e-mail comments to the Division, or request a hearing in writing (see Subpart K), at the address noted in Section 14.100(d), as to the validity or reasonableness of the Order. Comments will be accepted for a 15-day period after publication of the Order in the local newspaper. Unless the Division finds that a hearing is necessary or that a longer period of time is appropriate, the Order will be effective 20 days after publication in the local newspaper. A Certificate of Approval may be issued anytime after the effective date of the Order. The Division will consider all comments received within the 15-day period prior to making a decision whether to grant or deny a Certificate of Approval. (See Section 60 of the Act.)
- h) After publication of the Order, if a hearing is requested, the Division will schedule it at the earliest date possible in the county seat of the county where the

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proposed airport or RLA is to be located. All interested persons will be notified in writing at least 10 days prior to the scheduled date of the hearing. After the hearing has been held, the Division will issue a Supplemental Order indicating the findings and conclusions of the hearing and whether the original Order will stand or whether it will be modified. A copy of the Supplemental Order will be mailed to the applicant as well as to the person or persons requesting the hearing.

- i) The applicant will have 18 months from the effective date of the Order to complete construction of the airport or RLA. The applicant shall contact the Division in writing or by phone, as noted in Section 14.100(d), within 30 days after the completion of construction of the airport or RLA to schedule a final inspection with the Division. If the requirements of this Part have been met upon completion of construction and final inspection, the Division will issue a Certificate of Approval for the operation of the airport or RLA to the applicant.
- j) If the applicant is unable to complete construction of the airport or RLA, or, if the requirements of this Part have not been met within 18 months of the effective date of the Order, the applicant may request in writing, at the address noted in Section 14.100(d), an extension of time of the expiration date noted in the Order. The applicant must state the reasons for requesting the extension of time (e.g., weather delays, financial reasons) in the written request. The Division may grant or deny an extension of time based on whether the applicant has shown good cause to justify the request. If an extension of time is granted, the additional period of time allowed will be at the Division's discretion. If a request for an extension of time is denied, or if the minimum standards of this Part cannot be met, the application for a Certificate of Approval becomes null and void on the date the Order expires.

(Source: Amended at 38 Ill. Reg. 20064, effective October 2, 2014)

Section 14.120 Transfer/Modification/Rescission of Certificate of Approval

All forms referenced in this Section may be obtained from the Division as noted in Section 14.100(d).

- a) Transfer of Certificate of Approval. Any applicant desiring to have an airport or RLA Certificate of Approval transferred to his name must complete the following process.

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- 1) Complete and sign an Application to Transfer Certificate of Approval form (Form AER 2058). This application must also be signed by the present Certificate Holder (if available) and notarized. An original application must be mailed or delivered to the Division at the address noted in Section 14.100(d).
- 2) Include proof that the applicant has the authority to operate the requested airport or RLA on the subject property as evidenced by:
 - A) the written approval of the prior Certificate Holder or, if deceased, executor or administrator of the estate;²⁵ or
 - B) a copy of the deed or long-term lease.
- 3) Division personnel will visit the airport or RLA, as early as Division priorities will allow, to determine whether it meets the minimum standards found in this Part, or, whether it meets the minimum standards in effect at the time of certification for the operation of an airport or RLA, before a transfer will be approved.
 - A) If the Division finds that the minimum standards have been met, the Division will issue an Order approving the transfer of the Certificate of Approval that will become effective immediately, with a copy simultaneously mailed to the applicant along with a new Certificate of Approval. No Notice is required for this action and the Order is not required to be published in the newspaper.
 - B) If the minimum standards of this Part have not been met, or, if the airport or RLA is not in compliance with the minimum standards in effect at the time of certification, the Division will advise the applicant as to what corrective measures need to be taken to achieve compliance (e.g., cut trees, clear brush). Once the Division has determined that standards have been met, the Division will issue an Order approving the transfer of the Certificate of Approval that will become effective immediately, with a copy simultaneously mailed to the applicant along with a new Certificate of Approval.

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- b) Modification of Certificate of Approval. No person shall make an extension or alteration to an existing airport or RLA that will require a modification of the Certificate of Approval without first having secured an Order from the Division approving the extension or alteration. Extensions or alterations will be considered in accordance with the applicable standards provided in either Section 14.510(a), 610(a), 710(a) or 810(a).
- 1) The Certificate Holder shall complete an Application for Approval of Extension or Alteration to an Airport or RLA form (Form AER 2057) and shall state the nature of the proposed extension or alteration to the airport or RLA in the application. An extension or alteration requiring a modification to the Certificate of Approval includes, but is not limited to the following:
- A) Construction, realignment, alteration or activation of any runway or other aircraft landing or takeoff area on an airport or RLA, or a taxiway associated with a landing or takeoff area on an airport or RLA, that causes any material change in the length, width or direction of any runway, other aircraft landing or takeoff area, or taxiway on an airport or RLA.
 - B) Change of any traffic pattern or traffic pattern altitude or direction.
 - C) Construction or installation of any building or other structure on the airport or RLA property that would extend above an approach slope, transition slope or turning zone.
 - D) Planting or permitting to grow any vegetation or placement of any other obstacle on the airport or RLA property that would extend above an approach slope, transition slope or turning zone.
 - E) Discontinuance of any runway or other aircraft landing or takeoff area of an airport or RLA, as such, or any taxiway associated with a landing or takeoff area of an airport or RLA, for a period of one year or more.
 - F) Change in status of an airport or RLA from private-use to public-use, or change in status of any airport from public-use to private-use or RLA.

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- 2) If the extension or alteration is such that a FAA Form 7480-1 must be submitted to the FAA for airspace approval (the requirements are listed on the instruction sheet for the Form 7480-1), the Division will submit the form on behalf of the applicant.
- 3) Once the Division has received a favorable airspace determination from the FAA ~~(in approximately 30-60 days)~~, if required, the applicant will be notified in writing and the Division will proceed in processing Form AER 2057. If the FAA issues a non-favorable airspace determination, the applicant will be notified in writing as to what criteria needs to be met to receive a favorable determination (e.g., obstruction removed).
- 4) The Division will publish a Notice in the local newspaper, within the county where the airport or RLA is located, indicating that the Division intends to publish an Order granting or denying the modification to the Certificate of Approval, with a copy of the Notice simultaneously mailed to the applicant. All interested persons may, prior to the publication of the Order in the newspaper, file objections to or comments on the proposed Order by writing to the Division, at the address noted in Section 14.100(d), within 15 days after the date of publication of the Notice in the newspaper. The Division will consider any comments or opposition received within the 15-day period prior to making a decision to grant or deny a modification of the Certificate of Approval and prior to publishing the Order. (See Section 60 of the Act.)
- 5) If no comments or opposition to the proposed extension or alteration of the airport or RLA are received by the Division within the 15-day period, the Division will publish an Order in the local newspaper, within the county where the airport or RLA is located, approving the proposed extension or alteration of the airport or RLA and the modification of the Certificate of Approval, with a copy simultaneously mailed to the applicant. The Order will include a description of the proposed extension or alteration, any terms and restrictions (e.g., runway orientation, length) associated with the issuance of a modified Certificate of Approval, a completion date for the extension or alteration, and a provision that a final inspection of the airport or RLA is to be conducted prior to the issuance of the modified Certificate of Approval.

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- 6) After the Order is published, interested persons may write or e-mail comments to the Division, or request a hearing in writing (see Subpart K), at the address noted in Section 14.100(d), as to the validity or reasonableness of the Order. Comments will be accepted for a 15-day period after publication of the Order in the local newspaper. Unless the Division finds that a hearing is necessary or that a longer period of time is appropriate, the Order will be effective 20 days after publication in the local newspaper. A modified Certificate of Approval may be issued to the Certificate Holder anytime after the effective date of the Order. The Division will consider any comments received within the 15-day period prior to making a decision to grant or deny a modified Certificate of Approval. (See Section 60 of the Act.)
- 7) If a hearing is requested, the Division will schedule it at the earliest date possible in the county seat of the county where the airport or RLA is located. All interested persons will be notified in writing at least 10 days prior to the scheduled date of the hearing. After the hearing has been held, the Division will issue a Supplemental Order indicating the findings and conclusions of the hearing and whether the original Order will stand or whether it will be modified. A copy of the Supplemental Order will be mailed to the Certificate Holder as well as to the person or persons requesting the hearing.
- 8) The Certificate Holder will have 18 months from the effective date of the Order to complete the extension or alteration of the airport or RLA. The Certificate Holder shall contact the Division in writing or by phone, as noted in Section 14.100(d), within 30 days after the completion of the extension or alteration of the airport or RLA to schedule a final inspection with the Division. If the minimum standards of this Part have been met upon completion of the extension or alteration and final inspection, the Division will issue a modified Certificate of Approval to the Certificate Holder for the operation of the airport or RLA that includes any extension or alteration made to the airport or RLA.
- 9) If the Certificate Holder is unable to complete the extension or alteration of the airport or RLA within 18 months of the effective date of the Order, the Certificate Holder may request in writing, at the address noted in Section 14.100(d), an extension of time of the expiration date in the Order. The Certificate Holder must state the reasons for requesting the extension

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of time (e.g., delay in starting the project, weather delays) in the written request. The Division may grant or deny an extension of time based on whether the Certificate Holder has shown good cause to justify the request. If an extension of time is granted, the additional period of time allowed will be at the Division's discretion. If the request for an extension of time is denied, the application for the extension or alteration to the airport or RLA becomes null and void on the date the Order expires.

- 10) The Division may initiate the modification of a Certificate of Approval if it finds, upon inspection, that the airport or RLA is not being operated in accordance with this Part or with the standards in effect at the time the original Certificate of Approval was issued for the airport or RLA. Modifications will be made after the issuance of a Notice, Order and opportunity to be heard as outlined in subsections (b)(4), (5), (6) and (7) of this Section.
- c) Rescission of Certificate of Approval. The Certificate Holder, the property owner, and the Division each have the authority to request that a Certificate of Approval to operate an airport or RLA in Illinois be rescinded. Additionally, rescission may be accomplished by Operation of Law as provided in subsection (c)(4) of this Section.
- 1) Rescission by Certificate Holder. The Certificate Holder shall submit a completed Rescission of Certificate of Approval form (Form AER 2548) authorizing the closing of an airport or RLA and requesting that the Division rescind the Certificate of Approval. The form shall include the reasons for the rescission. A voluntary rescission by the Certificate Holder requires that the Division issue an Order of Rescission and mail a copy to the Certificate Holder. No Notice is required. The Order is not required to be published in the local newspaper but will be entered into the Division's records.
 - 2) Rescission by Property Owner. The owner of the property that an airport or RLA is located upon shall submit a completed Rescission of Certificate of Approval form authorizing the closing of an airport or RLA and requesting that the Division rescind the Certificate of Approval. The form shall include the ~~reasons~~reason(s) for the rescission, as well as a notarized statement indicating that the Certificate Holder no longer has the authority to operate the airport or RLA on the subject property. A voluntary

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rescission by the property owner requires the Division to issue an Order of Rescission and mail copies to the property owner and the Certificate Holder. No Notice is required. The Order is not required to be published in the local newspaper but will be entered into the Division's record.

- 3) Rescission by the Division. The Division will rescind a Certificate of Approval if it finds that an airport or RLA is not being operated in accordance with this Part, or is not safe or is not being maintained or operated safely. The abandonment of an airport or RLA for a period of two consecutive years shall be just cause for the Division to rescind a Certificate of Approval. Any rescission by the Division will be after the issuance of a Notice, Order and an opportunity to be heard as outlined in subsections (b)(4), (5), (6) and (7) of this Section. (See Section 49 of the Act.)
- 4) Rescission by Operation of Law. Each Certificate of Approval will automatically expire, with no further action required, upon the death of the Certificate Holder or dissolution of the corporation, Limited Liability Company (LLC), Limited Liability Partnership (LLP), Association, etc. holding the Certificate of Approval, unless the Division receives an Application to Transfer Certificate of Approval form (Form AER 2058) and the airport or RLA is in compliance with the minimum standards of this Part.

(Source: Amended at 38 Ill. Reg. 20064, effective October 2, 2014)

SUBPART G: RESTRICTED LANDING AREAS

Section 14.700 Restricted Landing Area Classification

Restricted Landing Areas (RLAs) shall be classified as private-use only. For the purposes of this Subpart G, ~~the word~~ RLA includes Ultralight/STOL RLAs ~~utilizing aircraft having STOL capabilities~~. An RLA shall provide a landing area sufficient for a safe operation, taking into consideration the type of aircraft to be used and the skill level of the pilots using the RLA. The minimum standards for the establishment, management or operation of RLAs shall be in accordance with this Subpart G, including the minimum dimensional standards as shown in Section 14.Appendix E, Illustrations A, B, C and DB.

(Source: Amended at 38 Ill. Reg. 20064, effective October 2, 2014)

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Section 14.710 Application for Certificate of Approval

- a) New RLAs. The Division will issue a Certificate of Approval for an RLA in accordance with Section 14.115, and, taking into consideration:
- 1) the RLA's proposed location;
 - 2) the RLA's size and layout;
 - 3) the relationship of the proposed RLA to the then current State and Federal Airport and Airways System;
 - 4) whether there are safe areas available for expansion purposes;
 - 5) whether the adjoining areas are free from obstructions based on a proper glide ratio;
 - 6) the nature of the terrain;
 - 7) the nature of the uses to which the proposed RLA will be put;
 - 8) the possibilities for future development; and
 - 9) the minimum standards contained in this Subpart G, including [Section 14.710](#) Appendix E, Illustrations A, [B](#), [C](#) and [DB](#). (See Section 48 of the Act.)
- b) Transfer of Certificate of Approval. The Division will issue a new Certificate of Approval for the transfer of an RLA in accordance with Section 14.120(a).
- c) Modification of Certificate of Approval. The Division will issue a new Certificate of Approval after completion of an RLA extension or alteration that requires a modification of the Certificate of Approval in accordance with Section 14.120(b).

(Source: Amended at 38 Ill. Reg. 20064, effective October 2, 2014)

Section 14.720 Design and Layout Requirements

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The minimum RLA design and layout requirements shall be in accordance with the standards and limitations shown in ~~Section 14.~~Appendix E, Illustrations A, B, C and DB.

(Source: Amended at 38 Ill. Reg. 20064, effective October 2, 2014)

Section 14.730 Obstructions

~~Minimum RLA obstruction clearance standards shall be in accordance with Section 14.Appendix E, Illustration A.~~ In order for an RLA to be eligible for a Certificate of Approval under this Part, an RLA must initially and continually be free of obstructions (e.g., trees, power lines) on all runways or landing strips within the glide ratio and height limitations shown in ~~Section 14.~~Appendix E, ~~Illustrations~~Illustration A and C.

(Source: Amended at 38 Ill. Reg. 20064, effective October 2, 2014)

Section 14.740 Facilities

Every RLA shall provide:

- a) Wind direction/velocity indicator (must be lighted for night use); and
- b) Clearly marked thresholds and/or displaced thresholds visible from 1500' above ground level (AGL) as shown in ~~Section 14.~~Appendix E, Illustration EC.

(Source: Amended at 38 Ill. Reg. 20064, effective October 2, 2014)

Section 14.750 Responsibility of a Restricted Landing Area Certificate Holder

The holder of a Certificate of Approval for an RLA or his or her authorized agent has the responsibility to enforce applicable federal, State and local aeronautical laws, and regulations of this Part. In addition to maintaining the terms and conditions outlined in the Certificate of Approval and its supporting Order, the Certificate Holder or his or her agent must:

- a) Immediately designate any condition that may render an aircraft landing or takeoff hazardous by prominently displaying an "X" as set forth in ~~Section 14.~~Appendix E, Illustration FD.
- b) Supervise or cause the supervision of all aeronautical activity in connection with the RLA in the interest of safety.

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- c) Maintain the landing area and approaches so as to permit safe operation in accordance with original certification standards.
- d) Ensure that the RLA has a phone number by which Division personnel can reach the Certificate Holder or his designee. In the event that the Certificate Holder or his [or her](#) designee is not available at this number, a reliable secondary number where the Certificate Holder or his designee can be reached shall be available. It is mandatory that any change in Certificate Holder/designee address or phone number be reported to the Division in writing, by phone or e-mail at the address provided in Section 14.115(a), within 10 days after the change.
- e) Furnish the Division, upon request, with information concerning aircraft using the RLA as an operating base, persons exercising managerial or supervisory functions at the RLA, accidents and the nature and extent of aeronautical activity occurring at the RLA.
- f) Obliterate all signs and markings that might indicate that the RLA is still operating as such, prior to the Division issuing an Order closing the RLA, in accordance with Section 14.120(c).

(Source: Amended at 38 Ill. Reg. 20064, effective October 2, 2014)

Section 14.760 Fly-In Events, Prevention of Accidents Due to Overcrowding of Landing Areas

- a) Whenever a fly-in event (more than six aircraft) is staged or held at any RLA, it shall be the responsibility of the Certificate Holder to:
 - 1) Provide, install, display and maintain clearly visible "Closed Runway" X markers, in accordance with [Section 14](#).Appendix E, Illustration [FD](#) (each of the four arms of each ~~such~~ X marker must be at least 60 feet long and at least 10 feet wide and of a color (preferably yellow) to contrast with the background on which it is installed).
 - A) Keep X markers in place at all times during the course of the event at or near each end of each landing strip or runway, other than the active landing strip or runway, to prevent mistaken or inadvertent use for landing.

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- B) Keep X markers in place at or near each end of the active landing strip or runway when all aircraft that can be accommodated have landed; or, where field, spectator, weather conditions or departure of aircraft on the ground shall render further landing of aircraft hazardous.
- 2) Provide personnel to guide landed aircraft to and from the aircraft parking area and provide, designate and regulate parking of aircraft, automobiles or other vehicles in a safe manner.
- 3) Provide and designate by readily discernible markings, landing strips or runways and taxiing space for landings and takeoffs, and aircraft movement on the ground during the course of the event. Landing strips or runways and taxiing space must be kept clear of persons, vehicles, animals and aircraft on the ground that are not taking off, landing or taxiing. In the event that any landing strip or runway, and any taxiing space, shall be approximately parallel, there shall be a clear minimum distance of 100 feet between their adjacent edges. Participating aircraft shall not be permitted to park closer than 100 feet to the edge-designating marker of a landing strip or runway used or designated for ~~that~~ use during the course of the event.
- b) It shall be the responsibility of the pilot of each aircraft participating in a fly-in event to look for and abide by:
- 1) any restrictions displayed;
 - 2) "Closed Runway" X markers; and
 - 3) all taxiing and parking directions.

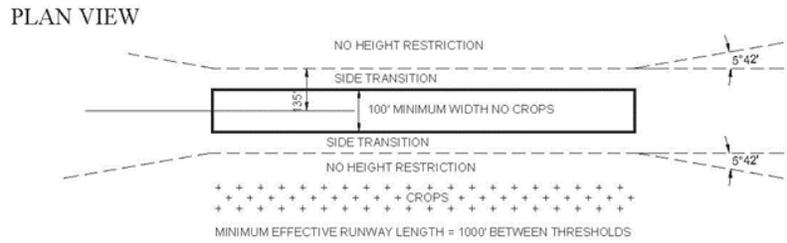
(Source: Amended at 38 Ill. Reg. 20064, effective October 2, 2014)

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Section 14.APPENDIX E Restricted Landing Areas Standards

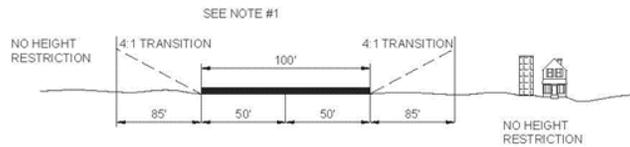
Section 14.ILLUSTRATION C Ultralight/STOL Restricted Landing Areas Minimum Dimensional Standards



PROFILE (END) VIEW - OBSTRUCTION CLEARANCE



RUNWAY CROSS SECTION VIEW - OBSTRUCTION CLEARANCE

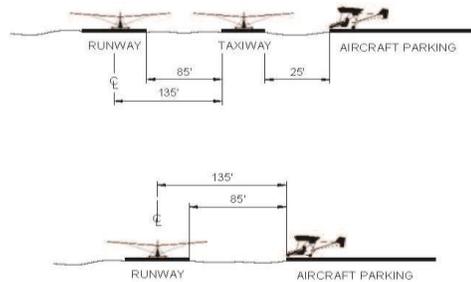
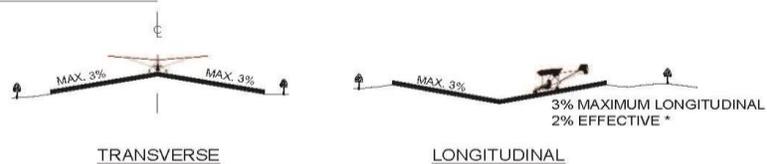


- NOTES:
1. NO PENETRATIONS TO 4:1 SIDE TRANSITION SURFACES FOR 135' FROM CENTERLINE.
 2. NO PENETRATIONS TO 15:1 RUNWAY APPROACHES.
 3. NO CROPS WITHIN 50' EITHER SIDE OF RUNWAY CENTER LINE.
 4. CLEARANCES REQUIRED FOR APPROACHES
 - 10' CLEARANCE OVER ALL PRIVATE ROADWAYS.
 - 15' CLEARANCE OVER ALL PUBLIC HIGHWAYS.
 - 17' CLEARANCE OVER ALL INTERSTATE HIGHWAYS.
 - 23' CLEARANCE OVER ALL RAILROADS.

(Source: Old Illustration C renumbered to Appendix E, Illustration E and new Illustration C added at 38 Ill. Reg. 20064, effective October 2, 2014)

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Section 14.APPENDIX E Restricted Landing Areas Standards**Section 14.ILLUSTRATION D Ultralight/STOL Restricted Landing Areas Minimum Separation & Gradient Standards**PROFILE VIEW - MINIMUM STANDARDS FOR SEPARATIONRUNWAY GRADIENT

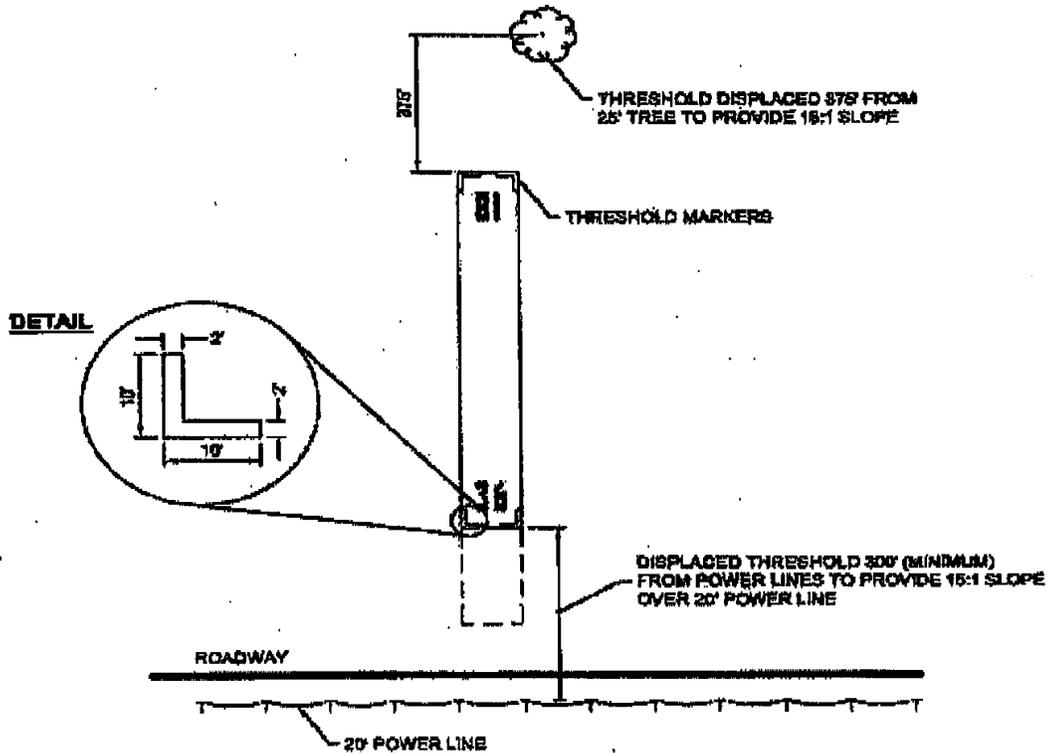
$$* \text{ EFFECTIVE RUNWAY GRADIENT} = \frac{\text{MAXIMUM DIFFERENCE IN RUNWAY END ELEVATIONS}}{\text{RUNWAY LENGTH}}$$

(Source: Old Illustration D renumbered to Appendix E, Illustration F and new Illustration D added at 38 Ill. Reg. 20064, effective October 2, 2014)

DEPARTMENT OF TRANSPORTATION

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Section 14.APPENDIX E Restricted Landing Areas Standards

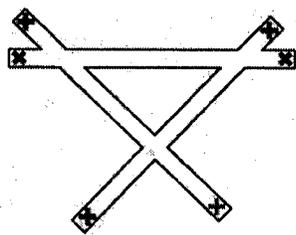
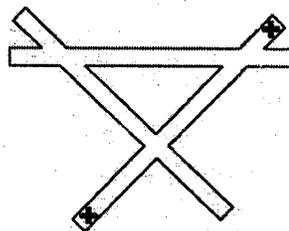
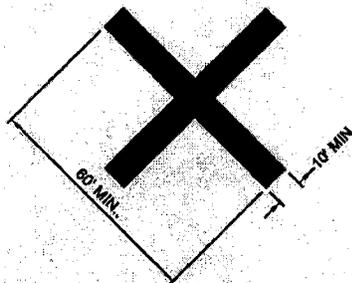
Section 14.ILLUSTRATION EC Restricted Landing Areas Displaced Threshold Markings

NOTE: MEASURE THE LEGS 10' LONG BY 2' WIDE. CUT A TRENCH 4" TO 5" DEEP. PUT SHEET PLASTIC IN THE BOTTOM AND FILL WITH CRUSHED WHITE ROCK OR OTHER DISTINGUISHABLE MATERIAL.

(Source: Renumbered from Appendix E, Illustration C at 38 Ill. Reg. 20064, effective October 2, 2014)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 14.APPENDIX E Restricted Landing Areas Standards**Section 14.ILLUSTRATION FD Restricted Landing Areas Closed RLA & Closed Runway Marker**ENTIRE RLA CLOSEDONE RUNWAY CLOSEDDETAIL OF CLOSED RLA AND RUNWAY MARKERGENERAL NOTES

1. THE MARKER SHOULD BE CONSTRUCTED OF DURABLE WATERPROOF MATERIAL AND IT SHOULD BE NO SMALLER THAN SHOWN IN THE DETAIL. IN AREAS WHERE SNOW IS EXPECTED THE MARKER SHOULD BE CONSTRUCTED SO THAT IT WILL SHED SNOW.
2. COLOR OF MARKER MATERIAL (NATURAL OR APPLIED) SHOULD PROVIDE MAXIMUM CONTRAST WITH BACKGROUND AREAS. (YELLOW OR WHITE RECOMMENDED)
3. THE MARKER SHOULD BE INSTALLED AT A SUITABLE HEIGHT ABOVE THE GROUND TO PREVENT IT FROM BECOMING OBSCURED BY VEGETATION, WATER, OR EARTH.
4. WHERE A PAVED RUNWAY IS CLOSED, THE MARKER MAY BE PAINTED ON THE RUNWAY PROVIDED IT WILL NOT BECOME OBSCURED AS NOTED ABOVE.

(Source: Renumbered from Appendix E, Illustration D at 38 Ill. Reg. 20064, effective October 2, 2014)

CHIEF PROCUREMENT OFFICER FOR
PUBLIC INSTITUTIONS OF HIGHER EDUCATION

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: Eby-Brown Company, LLC (Richard Wake, President)
3. Date of Violation: September 24, 2010
4. Description of Violation: Eby-Brown Company, LLC (Richard Wake, President) made a contribution of \$10,000 to Citizens for Bill Brady, Inc. (now Brady for Senate Inc.), a campaign committee established to support the election of Bill Brady to the office of Governor. At the time of the contribution, Bill Brady was a declared candidate for the office of Governor, and Eby-Brown Company, LLC had in place active contracts with the University of Illinois, the total annual combined 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 Public Institutions of Higher Education has notified Eby-Brown Company, LLC (Richard Wake, President) of the apparent violation, reviewed responsive material provided, and has considered the value, status, and necessity of the contracts. In addition, the Chief Procurement Officer has taken into consideration the recognition by Eby-Brown Company, LLC (Richard Wake, President) of the violation and its understanding of the necessity to avoid such situations in the future. The Chief Procurement Officer 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. (formerly Citizens for Bill Brady, 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.

CHIEF PROCUREMENT OFFICER FOR
PUBLIC INSTITUTIONS OF HIGHER EDUCATION

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: Thomas Wake, Vice-President, Eby-Brown Company, LLC.
3. Date of Violation: December 30, 2013 & March 4, 2014
4. Description of Violation: Mr. Thomas Wake, an affiliated person of the business entity Eby-Brown Company, LLC, made a contribution of \$2,500 on December 30, 2013 and a contribution of \$5,300 on March 4, 2014 to Citizens for Rauner, Inc., a campaign committee established to support the election of Bruce Rauner to the office of Governor. At the time of the contributions, Bruce Rauner was a declared candidate for the office of Governor, and Eby-Brown Company, LLC had in place active contracts with the University of Illinois, the total annual combined 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 Public Institutions of Higher Education has notified Mr. Thomas Wake of the apparent violations, reviewed responsive material provided, and has considered the value, status, and necessity of the contracts. In addition, the Chief Procurement Officer has taken into consideration the recognition by Mr. Thomas Wake of the violations and his understanding of the necessity to avoid such situations in the future. The Chief Procurement Officer 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, Citizens for Rauner, Inc., is required to pay to the State an amount equal to the value of the contributions 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 during the period of September 30, 2014 through October 6, 2014. The Department of Insurance and Illinois Emergency Management Agency rulemakings are scheduled for review at the Committee's October 14, 2014 meeting, while the Illinois Liquor Control Commission rulemaking is scheduled for review at the Committee's November 19, 2014 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>
11/13/14	<u>Department of Insurance, Workers'</u> Compensation Rate and Manual Filing (50 Ill. Adm. Code 2902)	6/27/14 38 Ill. Reg. 13139	10/14/14
11/14/14	<u>Illinois Emergency Management Agency,</u> Emergency and Written Notification of an Incident or Accident Involving a Reportable Hazardous Substance (29 Ill. Adm. Code 430)	8/15/14 38 Ill. Reg. 17174	10/14/14
11/19/14	<u>Illinois Liquor Control Commission, The</u> Illinois Liquor Control Commission (11 Ill. Adm. Code 100)	8/8/14 38 Ill. Reg. 16634	11/19/14

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 38, Issue 42 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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