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OF GOVERNMENTAL
AGENCIES



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INTRODUCTION

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

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

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

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

2008 REGISTER SCHEDULE VOLUME #32

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 21, 2007*	January 4, 2008
2	December 31, 2007	January 11, 2008
3	January 7, 2008	January 18, 2008
4	January 14, 2008	January 25, 2008
5	January 22, 2008	February 1, 2008
6	January 28, 2008	February 8, 2008
7	February 4, 2008	February 15, 2008
8	February 11, 2008	February 22, 2008
9	February 19, 2008	February 29, 2008
10	February 25, 2008	March 7, 2008
11	March 3, 2008	March 14, 2008
12	March 10, 2008	March 21, 2008
13	March 17, 2008	March 28, 2008
14	March 24, 2008	April 4, 2008
15	March 31, 2008	April 11, 2008
16	April 7, 2008	April 18, 2008
17	April 14, 2008	April 25, 2008
18	April 21, 2008	May 2, 2008
19	April 28, 2008	May 9, 2008
20	May 5, 2008	May 16, 2008
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22	May 19, 2008	May 30, 2008

23	May 27, 2008	June 6, 2008
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28	June 30, 2008	July 11, 2008
29	July 7, 2008	July 18, 2008
30	July 14, 2008	July 25, 2008
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39	September 15, 2008	September 26, 2008
40	September 22, 2008	October 3, 2008
41	September 29, 2008	October 10, 2008
42	October 6, 2008	October 17, 2008
43	October 14, 2008	October 24, 2008
44	October 20, 2008	October 31, 2008
45	October 27, 2008	November 7, 2008
46	November 3, 2008	November 14, 2008
47	November 10, 2008	November 21, 2008
48	November 17, 2008	December 1, 2008
49	November 24, 2008	December 5, 2008
50	December 1, 2008	December 12, 2008
51	December 8, 2008	December 19, 2008
52	December 15, 2008	December 26, 2008
53	December 22, 2008	January 2, 2009

Editor's Note: The Secretary of State Index Department is providing this opportunity to notify you that the next filing period for your Regulatory Agenda will occur from April 21, 2008 to July 1, 2008.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Local Government Health Plan
- 2) Code Citation: 80 Ill. Adm. Code 2160
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2160.120	Amendment
2160.130	Amendment
2160.210	Amendment
2160.250	Amendment
2160.260	Amendment
2160.270	New Section
2160.310	Amendment
2160.320	Amendment
2160.330	Amendment
2160.335	Amendment
2160.410	Amendment
2160.420	Amendment
2160.510	Amendment
2160.520	Amendment
2160.610	Amendment
2160.710	Amendment
2160.720	Amendment
- 4) Statutory Authority: Implementing multiple sections of the State Employees Group Insurance Act of 1971 and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].
- 5) A Completed Description of the Subjects and Issues Involved: Generally, the proposed rulemaking clarifies the eligibility and participation requirements for the Local Government Health Plan. Specifically, the proposed amendments clarify the eligibility requirements for each Unit under the Plan; adds Qualified Child Advocacy Centers as Units eligible for participation in the Plan; and clarifies the procedures for appeals under the Plan. Additional technical changes have been made to make the provisions of the Plan clearer while ensuring that the Participants are provided with all of the benefits available to them under the Plan.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

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- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking include incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed rules neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

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

217/785-1793

Interested persons may discuss the rulemaking with:

Janice Bonneville
Illinois Department of Central Management Services
201 E. Madison, Suite 3A
P.O. Box 19208
Springfield, IL 62794-1908

217/785-8675

- 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

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- C) Type of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE F: EMPLOYEE BENEFITS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2160

LOCAL GOVERNMENT HEALTH PLAN

SUBPART A: PURPOSE AND DEFINITIONS

Section

2160.110	Name of the Program
2160.120	Purpose
2160.130	Definitions

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

Section

2160.210	Determining Eligibility of Groups
2160.220	Enrollments and Terminations
2160.230	Rate Setting
2160.240	Premium Collection and Billing
2160.250	Other Administrative Responsibilities
2160.260	Program Termination
<u>2160.270</u>	<u>Health Insurance Portability and Accountability Act (HIPAA)</u>

SUBPART C: RESPONSIBILITIES OF LOCAL GOVERNMENT UNITS

Section

2160.310	Enrollment Responsibilities
2160.320	Premium Collection and Payment
2160.325	Program Termination (Renumbered)
2160.330	Signing the Agreement
2160.335	Health Insurance Portability and Accountability Act (HIPAA)

SUBPART D: RESPONSIBILITIES OF LOCAL GOVERNMENT
HEALTH PLAN REPRESENTATIVES

Section

2160.410	Health Plan Representatives
----------	-----------------------------

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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2160.420 Appeals Process Responsibilities

SUBPART E: ADVISORY BOARD

Section

2160.510 Appointment of Advisors

2160.520 Responsibilities of the Board

SUBPART F: FUNDING

2160.610 Local Government Health Insurance Reserve Fund

2160.620 Premium Rate Structure

SUBPART G: HEALTH CARE COVERAGE

Section

2160.710 Local Government Health Plan

2160.720 Health Care Coverage

AUTHORITY: Implementing and authorized by Sections 10, 13 and 15 of the State Employees Group Insurance Act of 1971 [5 ILCS 375/10, 13 and 15].

SOURCE: Adopted at 14 Ill. Reg. 14343, effective August 22, 1990; amended at 17 Ill. Reg. 11441, effective July 9, 1993; amended at 25 Ill. Reg. 10306, effective August 3, 2001; amended at 26 Ill. Reg. 16822, effective October 31, 2002; amended at 28 Ill. Reg. 311, effective January 2, 2004; amended at 32 Ill. Reg. _____, effective _____.

SUBPART A: PURPOSE AND DEFINITIONS

Section 2160.120 Purpose

The purpose of the Program is to provide health benefits to Employees, Annuitants and Dependents of Qualified Units of Local Government, Qualified Rehabilitation Facilities, ~~and~~ Qualified Domestic Violence Shelters and Services, and Qualified Child Advocacy Centers.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2160.130 Definitions

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Whenever used in ~~this Part these rules~~, the following terms shall have the meanings set forth ~~in this Section~~ below unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized.

"Act" means the State Employees Group Insurance Act of 1971 [5 ILCS 375].

"Administrative Service Organization" means any person, firm or corporation the Department ~~or HFS~~ has contracted with to administer the program.

"Agreement" means the Intergovernmental Cooperation Agreement executed by the Department and the Unit.

"Annuitant" means any former Employee, as defined in this Section, who has retired from a Unit and is receiving an annuity from an Illinois Public Pension System or another pension plan as a result of services to the Unit.

"Benefit Choice Period" means the annual election period, designated by the Department, during which Units may add or drop coverage for Annuitants ~~or~~ Dependents, ~~or Survivors~~; and Members may add or drop Dependents from coverage and select coverage from available plans offered.

"Board" means the Local Government Health Plan Advisory Board.

"Certificate of Creditable Coverage" means the document that indicates the length of time a person has been continuously covered under a qualifying previous healthcare plan.

"Compensation" means salary or wages paid by a Unit ~~or Facility~~ to an Employee for personal services currently performed.

"Department" means the Illinois Department of Central Management Services.

"Dependent", ~~when the term is used in the context of this Part~~, means any person participating in the Program as a non-Member.

"Director" means the Director of the Illinois Department of Central Management Services.

"Employee" means and includes an elected government official or a person in the

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service of a Unit in the State of Illinois who receives Compensation through the regular payroll for work currently performed and receives benefits comparable to others in the same Unit.

"Fiscal Year" means the State's fiscal year, i.e., from July 1 through June 30.

"Fund" means the Local Government Health Insurance Reserve Fund.

"Health Plan Representative" means an individual from a Unit who serves in the capacity of a liaison through whom the Department shall conduct all business necessary to provide health benefits to that Unit.

"HFS" means the Illinois Department of Healthcare and Family Services.

"Member" means an Employee or; Annuitant or Survivor.

"Plan" means the Local Government Health Plan.

"Pre-Existing Condition" means any disease, injury or condition, excluding maternity, for which the individual was diagnosed, received treatment/services, or took prescribed drugs during the 3 months immediately preceding the effective date of coverage under the Program.

"Program" means a benefits program, as authorized by the State Employees Group Insurance Act of 1971. The coverage offered to Units is similar to that offered to employees of the State of Illinois under the Program.

"Protected Health Information" or "PHI" means information subject to the protections of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), P.L. 104-191 and 45 CFR 160-164, effective April 14, 2001 and amended October 16, 2002 (no subsequent dates or additions).

"Unit" means a "Qualified Unit of Local Government", a "Qualified Domestic Violence Shelter or Service", or a "Qualified Rehabilitation Facility" or a "Qualified Child Advocacy Center", as defined in the State Employees Group Insurance Act of 1971.

~~"Survivor" means a person who is receiving an annuity from the Unit's retirement plan as a survivor of an Employee or Annuitant.~~

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(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

Section 2160.210 Determining Eligibility of Groups

- a) A Unit must be approved by the Director for participation in the Program, if the Unit:
- 1) ~~The Director shall grant eligibility for a Unit if the Unit~~ meets the definition in the Act; and
 - 2) ~~agrees to the conditions specified in this Part; and-~~
 - 3) ~~The Department shall not approve a Unit for participation if the Unit~~ has not withdrawn from the Program during the term of an ~~Agreement~~ agreement within the previous 2 Fiscal Years, except that a Unit may terminate effective at the end of the first Fiscal Year without penalty if the second Fiscal Year premium rate is 20% greater than the first Fiscal Year.
- b) ~~The Department shall grant eligibility to a~~ Qualified Rehabilitation Facility must have a not-for-profit status and be accredited by the Commission on Accreditation of Rehabilitation Facilities or certified by the Department of Human Services to provide services to persons with disabilities and receive funds from the Department of Human Services for providing services to persons with disabilities. ~~if the facility: 1) meets the definition in the Act; 2) agrees to the conditions specified in this Part; 3) has a not for profit status and has filed an Annual Report of Charitable Organization with the Secretary of State; 4) is accredited by the Commission on Accreditation of Rehabilitation Facilities to provide services to persons with disabilities or certified by the Department of Human Services; 5) receives funds from the Department of Human Services for providing services to persons with disabilities; and 6) has not withdrawn from the program during the term of an agreement within the previous 2 Fiscal Years.~~
- c) ~~The Department shall grant eligibility to a~~ Qualified Domestic Violence Shelter or Service must be funded by the Illinois Department of Human Services. ~~if the facility: 1) meets the definition in the Act; 2) agrees to the conditions specified in~~

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~~this Part;3)is funded by the Illinois Department of Human Services; and4)has not withdrawn from the Program during the term of an agreement within the previous 2 Fiscal Years, except as provided in subsection (a)(2).~~

- d) A Qualified Child Advocacy Center must be funded by the Illinois Department of Children and Family Services.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2160.250 Other Administrative Responsibilities

- a) The Department shall offer an annual Benefits Choice Period for Units to:
- 1) add or drop coverage for Annuitants as a group;
 - 2) allow Members to add or drop Dependent coverage;
 - 3) allow Members to change health plans.
- b) The Department shall provide information to the Units about the benefits and requirements of the Program in the Local Government Health Plan Benefits ~~Member~~ Handbook and the annual Benefit Choice Options booklet.
- c) The Department shall prepare and distribute an administrative procedures manual with periodic updates for the Health Plan Representatives designated by the Units.
- d) The Department will provide training seminars for Health Plan Representatives designated by the Units.
- e) The Department shall establish an Advisory Board. The responsibilities of the Board are described in Section 2160.520.
- f) The Department shall establish formal appeal procedures to be followed when the Member is dissatisfied with the benefit determination made by the Administrative Service Organization ~~Organizations~~ or self-funded managed care plan as described in Section 2160.420.
- g) The Department shall notify the designated Health Plan Representatives of the Administrative Service Organizations being used and the address and forms

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needed to submit claims to the Administrative Service Organizations. ~~The Department shall audit records of participating Units, such as payroll information, to verify enrollment and enforce eligibility rules under the Plan.~~

- h) The Department shall audit records of participating Units, such as payroll information, to verify enrollment and enforce eligibility rules under the Plan.
- i) The Department shall comply with the uses and disclosures of Protected Health Information, permitted by ~~HIPAA~~the Health Insurance Portability and Accountability Act (HIPAA), P.L. 104-191 and 45 CFR 160-164, ~~effective April 14, 2001 and amended October 16, 2002 (no subsequent dates or additions),~~ where applicable, in Plan documents.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2160.260 Program Termination

- a) Grounds for program termination by the Department include, but are not limited to:
 - 1) any material breach of the ~~Intergovernmental Cooperation~~ Agreement;
 - 2) failure to pay the full monthly premium by the last day of the coverage month;
 - 3) non-compliance with enrollment responsibilities in accordance with Section 2160.310; or
 - 4) failure to meet the eligibility requirements of a Unit.
- b) The Department shall issue one notice of termination. Termination shall be effective 15 days after notice of termination.
- c) Once termination occurs, the Unit shall not be permitted to enroll in the Program for a period of 2 ~~Fiscal Years~~fiscal years.
- d) Coverage terminates on the last day for which premium has been paid.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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Section 2160.270 Health Insurance Portability and Accountability Act (HIPAA)

The State shall comply with the uses and disclosures of Protected Health Information (PHI), permitted by HIPAA and 45 CFR 160-164, where applicable, in Plan documents.

- a) The Department shall provide an annual notice of privacy practices outlining the legal duties and privacy practices concerning the PHI of Members and Dependents.
- b) PHI may be disclosed:
 - 1) to health care providers who take care of Members and Dependents;
 - 2) to process claims and make payments for covered services;
 - 3) for healthcare operations;
 - 4) to remind Members or Dependents of an upcoming appointment; and
 - 5) as required or authorized by law.
- c) Members and Dependents have the right to:
 - 1) request restrictions on how their PHI is used for purposes of treatment, payment and healthcare operations;
 - 2) receive confidential communications about their PHI;
 - 3) request to inspect information used to make decisions about them;
 - 4) request an amendment to their PHI;
 - 5) receive an accounting of disclosures that have been made of their PHI;
 - 6) obtain a paper copy of the annual notice of privacy practices provided by the Department; and
 - 7) file a complaint if they feel that their privacy rights have been violated.

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- d) PHI may not be disclosed:
- 1) for any purpose other than administration of the benefit plan;
 - 2) for any fundraising activity;
 - 3) for the marketing of any products or services.

(Source: Added at 32 Ill. Reg. _____, effective _____)

SUBPART C: RESPONSIBILITIES OF LOCAL GOVERNMENT UNITS

Section 2160.310 Enrollment Responsibilities

- a) Any Unit within the State of Illinois interested in the Program may apply to the Director to have its Employees provided group health coverage under the Act. Annuitants, ~~Survivors~~ and Dependents may also be offered coverage.
- b) To participate, Units must agree to enroll all Employees who work 90% or more of the Unit's normal work period, except as provided in subsection (b)(45). ~~Employees, who~~ may select coverage under either the self-~~funded~~-insured ~~indemnity~~ health plan or a managed care plan that has contracted with the State, with the costs paid by the Unit, its Members or some combination of both as determined by the Unit.
 - 1) Employees must be employed at least half of the normal work period as measured yearly or meet the standard for participation in the Illinois Municipal Retirement Fund, except that elected government officials employed by a Qualified Unit of Local Government ~~the Units~~ have the option to participate in the Plan, regardless of the number of hours worked.
 - 2) Employees, other than elected government officials, must receive Compensation through the regular payroll process from the Unit.
 - 3) Units may permit Employees who work 50% to 90% of the Unit's normal work period to enroll as Members under the plan.

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- 4) ~~Employees who work 90% or more of the Unit's normal work period must be enrolled as Members in the Plan, except as provided in subsection (b)(5).~~
- 45) ~~An~~ A full-time Employee of a participating Unit of Local Government or a Qualified Rehabilitation Facility ~~Unit~~ who is covered as a spouse or Dependent under this or another group plan may elect to waive coverage, as long as the Health Plan Representative ~~an official from the Unit~~ attests to this other coverage and at least 85% of the full-time Employees of the Unit are covered. A participating school district must have enrolled at least 85% of its full-time Employees who have not waived coverage under the district's group health plan by participating in a component of the district's cafeteria plan. A participating school district is not required to enroll a full-time Employee who has waived coverage under the district's health plan, provided that an appropriate official from the participating school district attests that the full-time Employee has waived coverage by participating in a component of the district's cafeteria plan. For the purposes of this subsection (b)(45), "participating school district" includes school districts and career, vocational and special education school districts.
- 56) Employees of a participating Unit who are not enrolled due to coverage under another group health policy or plan may enroll during the annual Benefit Choice Period or at a later date if the Employee experiences a qualifying change in status. This coverage is subject to possible health benefit limitations based on Pre-Existing Conditions. No benefits shall be payable for services incurred during the first 6 months of coverage to the extent the services are in connection with any Pre-Existing Condition. The Pre-Existing Condition time period may be reduced by the amount of creditable coverage Members or Dependents may have had with another insurance plan prior to enrollment, provided there was not a break in coverage of more than 63 days. A Certificate of Creditable Coverage from the prior plan must be provided to the employing Unit to reduce the Pre-Existing Condition time period.
- c) Units may also elect to cover their Annuitants.
- 1) Units that elect to cover their Annuitants must allow Employees at the time of retiring the option to individually enroll in the Program. The

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option shall only be offered once to Annuitants.

- 2) Individual Annuitants terminating from the Program shall not be allowed to participate in the Program in the future.
- 3) At the time of the initial enrollment, Units may elect to cover current Annuitants as a group. During the annual Benefit Choice Period, Units may add or drop Annuitants as a group.
- d) Units may offer Dependent coverage.
- e) Units may enroll under the Program at the start of any month ~~beginning July 1, 1990.~~
 - 1) The Units must give the Department at least ~~30~~60 days advance written notice before enrollment.
 - 2) A Unit may enroll for part of the State's Fiscal Year. If a Unit has been enrolled in the Program for a partial State Fiscal Year, the Unit must begin the second year on July 1 to coincide with the State's Fiscal Year that is also the new Plan year.
- f) Units will inform Members of the following responsibilities. Plan Members must:
 - 1) be responsible for notifying the Health Plan Representative of coverage options chosen, and any changes that may affect eligibility or enrollment.
 - 2) be responsible for reviewing the Local Government Health Plan ~~Benefits~~Member Handbook describing coverages, eligibility, termination and claims submission requirements.
- g) Units that enroll in the Program shall designate a person to be the Health Plan Representative. The responsibilities of the Health Plan Representative are described in Section 2160.410.
- h) If the Unit exempts Members' premiums from taxes, in compliance with ~~section~~Section 125 of the Internal Revenue Code (26 USC 125), the Unit must comply with Internal Revenue Code requirements that prohibit changes in the Member deduction during the Fiscal Year unless the Member has a change in

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status.

- i) Units do not limit their duty to bargain with representatives of any collective bargaining unit of their Employees through participation in the Program.
- j) Compliance with the continuation of benefits requirements of the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) is the responsibility of the Unit. All premiums must be collected and transmitted by the Unit.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2160.320 Premium Collection and Payment

The Unit shall be responsible for the collection and transmission of Member and Dependent premiums.

- a) For the first month's premium only, the Department must receive the premium by the first day of coverage. This premium is non-refundable if the Unit does not enroll.
- b) For the subsequent months, the total amount due as specified in the billing statement, which includes the combined amount due from Members, Dependents and the Unit, shall be paid in full by the 20th day of the month the billing is received.
- c) Payments not received by the last day of the coverage month shall be considered delinquent and shall result in the suspension of payment of claims for services provided to Members of the Unit. Payment of claims shall be withheld until the Department receives the full monthly premium due.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2160.330 Signing the Agreement

Units must sign an Agreement~~agreement~~ with the Department.

- a) The first Agreement~~agreement~~ shall cover the actual period the Unit is enrolled between July 1 through June 30 of the first Fiscal Year and through the end of the

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second Fiscal Year.

- b) Subsequent ~~Agreements~~agreements shall be effective for 2 State Fiscal Years.
- c) The ~~Agreement~~agreement shall be prepared by the Department and shall contain the premium rates to be charged during the first Fiscal Year.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2160.335 Health Insurance Portability and Accountability Act ~~of 1996~~ (HIPAA)

The ~~Unit~~Department shall comply with the uses and disclosures of Protected Health Information, permitted by ~~the Health Insurance Portability and Accountability Act (HIPAA), P.L. 104-191~~ and 45 CFR 160-164, ~~effective April 14, 2001 and amended October 16, 2002 (no subsequent dates or additions)~~, where applicable, in Plan documents.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

**SUBPART D: RESPONSIBILITIES OF LOCAL GOVERNMENT
HEALTH PLAN REPRESENTATIVES****Section 2160.410 Health Plan Representatives**

Health Plan Representatives shall:

- a) enroll Members and their Dependents;
- b) provide enrollment, termination and change in status information to the Department on forms provided by the Department;
- c) provide coverage, enrollment and termination information to Members in accordance with the time schedules set by the Department, as described in the Local Government Health Plan ~~Benefits~~Member Handbook; and
- d) disseminate to Members information regarding benefits available under the Program, changes and/or additions to the Program, and any materials provided by the Department.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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Section 2160.420 Appeals Process Responsibilities

The Member shall be responsible for handling appeals concerning claims payments.

- a) All correspondence concerning appeals must indicate the Unit in which the Member is enrolled in the Program.
- b) If a Member believes that an error has been made in the benefit amount allowed or disallowed, the Member should contact the claims processing office of the self-funded managed care plan or the Administrative Service Organization within 180 days after denial of the initial claim determination. ~~The member must utilize the Plan or the Administrator's review process to the fullest extent prior to contacting the Department.~~
- c) Within 60 days after receiving ~~If the Member is not satisfied with~~ the results of the review process by the self-funded managed care plan or Administrative Service Organization, the Member may submit a written request for review to the Department for a final determination of either an administrative or medical necessity appeal.
- d) Administrative appeals are based on plan exclusions and limitations and plan design, and the Department's Group Insurance Division's decision is final and binding on all parties.
- e) Within 60 days after receipt of the notice of the Department's Group Insurance Division's decision, a medical necessity appeal may be made to the Board. The Board will review the documentation and facts presented to the Department and make a recommendation to the Director, whose decision shall be final and binding on all parties. The Director's decision shall be in writing.
- d) ~~If the Member is still not satisfied, the Member may appeal to the Advisory Board, which serves as the appeal committee. The Advisory Board will review the documentation and facts presented in the final determination and make a recommendation to the Director, whose decision shall be final and binding on all parties. Notification of the decision will be made in writing.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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SUBPART E: ADVISORY BOARD

Section 2160.510 Appointment of Advisors

The Director shall establish the Local Government Health Plan Advisory Board. This ~~Advisory Board~~ shall consist of 7 advisors who are Members of the Plan~~from Units who shall be appointed by the Director.~~

- a) ~~Advisors~~Advisory Board members shall be appointed by the Director for 3-year terms beginning on September 1.
- b) Of the initial appointments, 3 advisors shall be appointed for one year, 2 advisors shall be appointed for 2 years, and 2 advisors shall be appointed for 3 years. All subsequent appointments shall be for 3-year terms.
- c) If the Unit from which the ~~advisor~~Advisor was appointed withdraws from the Plan~~prior to the expiration of the term~~, the ~~advisor's~~ appointment will terminate as of the date of the Unit's withdrawal. The Director shall appoint another Member to serve the balance of the term. All subsequent appointments shall be 3 year appointments or until the Unit withdraws from the Plan, whichever is earlier.
- d) If the advisor ceases to be a Member, the advisor's appointment will terminate as of the date membership ceased. The Director shall appoint another Member to serve the balance of the term.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2160.520 Responsibilities of the Board

The responsibilities of the ~~Advisory~~ Board shall consist of the following:

- a) annually review material to be distributed to the Units;
- b) advise the Department concerning any modifications needed to improve the administration of the Plan;
- c) review rate setting methodologies;
- d) hear medical necessity appeals and make recommendations to the Director, ~~for~~

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~~final determination of coverage~~, as provided in Section 2160.420.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART F: FUNDING

Section 2160.610 Local Government Health Insurance Reserve Fund

- a) ~~The Director shall establish the Local Government Health Insurance Reserve Fund [5 ILCS 275/10(i)]. This Fund shall be a continuing Fund not subject to Fiscal Year limitations.~~
- ab) ~~Monthly premium~~ Premium payments by Units for group health coverage shall be deposited in the Local Government Health Insurance Reserve Fund (see 5 ILCS 375/10(i))~~this Fund~~. The Fund may also receive deposits of other revenues and monies.~~Monthly premium payments by Units shall be the sole source of funds.~~
- be) All expenditures from this Fund shall be used for payments of Members' health care benefits and to reimburse the Department, HFS,~~its~~ Administrative Service Organizations and insurers for all expenses incurred in the administration of the Plan. No State funds shall be used for these purposes.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART G: HEALTH CARE COVERAGE

Section 2160.710 Local Government Health Plan

The Local Government Health Plan is similar to the benefits offered by the State of Illinois to its employees.

- a) The Local Government Health Plan benefits are described in the Local Government Health Plan Benefits~~Member~~ Handbook that shall be provided to all Health Plan Representatives for distribution to all Members.
- b) All Units participating in the Plan shall receive sufficient Local Government Health Plan Benefits~~Member~~ Handbooks and Benefit Choice Options booklets to distribute to each of their Members.

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(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2160.720 Health Care Coverage

- a) Except as provided in subsections (b) and (c), for any Member or Dependent under the Plan, there is no coverage for 6 months after enrollment for health conditions that have been treated during the 3 months prior to enrollment, as described in the Local Government Health Plan ~~Benefits~~~~Member~~ Handbook.
- b) For all Members and their covered Dependents who enroll under the Plan at the time their respective Unit initially enrolls in the Plan, the limitation described in subsection (a) shall not apply.
- c) The Pre-Existing Condition time period may be reduced by the amount of creditable coverage Members or Dependents may have had with another insurance plan prior to enrollment, provided there was not a break in coverage of more than 63 days. A Certificate of Creditable Coverage from the prior plan must be provided to the employing Unit to reduce the Pre-Existing Condition time period.
- d) Coverage begins for all Members and their covered Dependents at 12:01 AM~~midnight~~ of the day the Unit is enrolled in the Plan.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: State (of Illinois) Employees' Deferred Compensation Plan
- 2) Code Citation: 80 Ill. Adm. Code 2700
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2700.110	Amendment
2700.200	Amendment
2700.310	Amendment
2700.315	New Section
2700.320	Amendment
2700.410	Amendment
2700.415	Amendment
2700.610	Amendment
2700.620	Amendment
2700.630	Amendment
2700.640	Amendment
2700.670	Amendment
2700.680	Amendment
2700.700	Amendment
2700.730	Amendment
2700.740	Amendment
2700.745	Amendment
2700.810	Amendment
- 4) Statutory Authority: Implementing section 457 of the Internal Revenue Code (26 USCA 457, et seq.) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rule changes represent a better delineation of responsibilities among the Recordkeeper, ISBI and CMS. Specifically, the rules:
 - Add and outline the responsibilities of the Recordkeeper
 - Further outline the responsibilities of the Board
 - Amend the process for hardship withdrawals
 - Clarify the composition of the Hardship Committee
 - Replace the term 'investment fund' with the term 'investment option'

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- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

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

217/785-1793

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: Some current CMS practices will change due to the shift in responsibilities from CMS to the Recordkeeper.
 - C) Types of professional skills necessary for compliance: None that are not already in place.

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- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: it was not anticipated.

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

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE H: DEFERRED COMPENSATION
CHAPTER I: ILLINOIS STATE BOARD OF INVESTMENT

PART 2700

STATE (OF ILLINOIS) EMPLOYEES' DEFERRED COMPENSATION PLAN

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section

2700.100	Establishment of Plan
2700.110	Purpose of Plan
2700.120	Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (Repealed)

SUBPART B: DEFINITIONS

Section

2700.200	Definitions
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SUBPART C: ADMINISTRATION

Section

2700.300	Responsibilities of the Department
2700.310	Responsibilities of the Board
<u>2700.315</u>	<u>Responsibilities of the Recordkeeper</u>
2700.320	Deferred Compensation Hardship Committee
2700.330	Applicable Law

SUBPART D: PARTICIPATION IN THE PLAN

Section

2700.400	Eligibility
2700.410	Enrollment
2700.415	Designation of Beneficiary
2700.420	Minimum Deferral
2700.430	Basic Annual Limitation
2700.435	Age 50 Catch-up Annual Deferral Contribution
2700.440	Special Section 457 Catch-up Limitation

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2700.450 Revocation of Deferral

SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

Section

2700.500 Normal Retirement Age

2700.510 Alternative Normal Retirement Age

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section

2700.600 Deferred Compensation Accounts

2700.610 Allocation of Investment Earnings or Losses

2700.620 Investment ~~Option~~Fund Valuation

2700.630 Administrative Costs

2700.640 Method of Making Investment Requests

2700.650 Participant Statements

2700.660 Custodial Account

2700.670 Investment ~~Options~~Funds

2700.680 Rollovers to the Plan

2700.690 Plan-to-Plan Transfers to the Plan

SUBPART G: DISTRIBUTIONS

Section

2700.700 Distribution Events

2700.710 Beneficiary Election of Method of Distribution

2700.720 Election of Delayed Distribution Date (Repealed)

2700.730 Election of Method of Distribution

2700.735 Distribution for Certain Balances of \$5,000 or Less

2700.740 Unforeseeable Emergency

2700.745 Plan-to-Plan Transfers from the Plan

2700.750 Permissive Service Credit Transfers

2700.760 Leave of Absence

SUBPART H: MISCELLANEOUS

Section

2700.800 Nonassignability

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2700.810	Payments to Minors and Incompetents
2700.820	Missing Persons
2700.830	Severability
2700.840	Days and Dates
2700.850	Domestic Relations Orders
2700.860	IRS Levy
2700.870	Mistaken Contributions

SUBPART I: AMENDMENT OR TERMINATION OF PLAN

Section

2700.900	Amendment of Plan
2700.910	Termination of Plan
2700.920	Merger with Prior Plans

2700.APPENDIX A Administrative Rules (Repealed)

2700.EXHIBIT A	Administrative Rule I (Repealed)
2700.EXHIBIT B	Administrative Rule II (Repealed)
2700.EXHIBIT C	Administrative Rule III (Repealed)
2700.EXHIBIT D	Administrative Rule IV (Repealed)
2700.EXHIBIT E	Administrative Rule V (Repealed)
2700.EXHIBIT F	Administrative Rule VI (Repealed)

AUTHORITY: Implementing section 457 of the Internal Revenue Code (26 USCA 457, et seq., as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 161, effective March 6, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 13, p. 7, effective March 19, 1979; amended at 3 Ill. Reg. 36, p. 436, effective August 29, 1979; amended at 4 Ill. Reg. 1, p. 45, effective December 26, 1979; amended at 6 Ill. Reg. 9655, effective July 23, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 10845, effective August 31, 1983; emergency amendments at 13 Ill. Reg. 629, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9308, effective May 31, 1989; emergency amendment at 17 Ill. Reg. 19976, effective November 2, 1993, for a maximum of 150 days; emergency expired April 2, 1994; amended at 18 Ill. Reg. 7224, effective May 2, 1994; amended at 21 Ill. Reg. 10050, effective July 15, 1997; emergency amendment at 23 Ill. Reg. 566, effective January 1, 1999, for a maximum of 150 days; amendment at 23 Ill. Reg. 6039, effective May 5, 1999; emergency amendment at 26 Ill. Reg. 478, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7442,

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effective May 6, 2002; emergency amendment at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8408, effective April 21, 2006; amended at 32 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section 2700.110 Purpose of Plan

- a) The purpose of this Plan is to allow Employees to designate a portion of their Compensation to be withheld each month by the State of Illinois and invested at the discretion of and in a manner approved by the Board in accordance with section 457 of the Internal Revenue Code of 1954 (26 USC 457) until Severance of Employment, Unforeseeable Emergency or death of the Employee.
- b) Participation in this Plan shall not be construed to establish or create an employment contract between the Employee and the State of Illinois.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS

Section 2700.200 Definitions

- a) Whenever used in the Plan, the following terms shall have the meanings set forth below unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized:

"Account Balance" means the bookkeeping account maintained with respect to each Participant that reflects the value of the Deferred Compensation credited to the Participant, including Annual Deferrals, the earnings or loss of the Investment OptionFund (net of Investment OptionFund expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in section 414(p)(8) of the Internal Revenue Code of 1954).

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"Alternate Retirement System" means this Plan, which is described in section 457 of the Internal Revenue Code, when used for purposes of section 3121(b)(7)(F) of the Code to exclude contractual employees from mandatory Social Security coverage.

"Annual Deferral" means the amount of Compensation deferred in any year.

"Applicable Dollar Amount" means the amount of Compensation allowed to be deferred in any calendar year as established under section 457(e)(15) of the Code.

"Beneficiary" means the person, persons or legal entity entitled to receive any undistributed Deferred Compensation that becomes payable in the event of the Participant's death, as designated by the Participant, or provided for in accordance with the Plan.

"Board" means the Illinois State Board of Investment.

"Code" means the Internal Revenue Code of 1954 (26 USC 1 et seq.), as amended from time to time, or any successor statute.

"Compensation" means all cash compensation for services to the State, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includable in the Employee's gross income for the calendar year but for a compensation reduction election under section 125, 132(f), 401(k), 403(b) or 457(b) of the Code.

"Custodial Account" means the fund created under and subject to the Custodial Agreement.

"Custodial Agreement" means the written agreement made by and between the State and the Custodian under which the Custodial Account is maintained.

"Custodian" means a bank, as described in section 408(n) of the Internal Revenue Code, or a person who meets the non-bank trustee requirements in accordance with the regulations under section 408(a)(2) of the Code relating to the use of non-bank trustees.

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"Deferred Compensation" means that portion of the Participant's Compensation that the Participant defers under this Plan.

"Deferred Compensation Account" means an account established under this Plan that is the basis for any distribution payable to the Participant under Section 2700.730 of this Part.

"Delayed Distribution Date" means the date a Participant elects to make a decision regarding distribution of the Participant's account.

"Department" means the Department of Central Management Services of the State of Illinois.

"Employee" means *any person, including a person elected, appointed or under contract, receiving compensation from the State for personal services rendered, including salaried persons* [40 ILCS 5/24-102], except that any person under contract with the Employer shall be eligible only to the extent the Internal Revenue Service or the Illinois Department of Revenue shall permit or approve.

"Employer" means the State of Illinois, including all officers, boards, commissions and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch, all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government that are created by or pursuant to statute other than units of local government and their officers, school districts and boards of election commissioners; all administrative units and corporate outgrowths of the above as may be created by executive order of the Governor.

"Hardship Committee" means a committee that is responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution as provided under Section 2700.740 of this Part.

"Includable Compensation" means the Employee's actual wages in box 1 of Form W-2 for a year for services to the State, as defined in section 457(e)(5) of the Code.

"Investment ~~Option Fund~~" means any and all investment vehicles~~funds~~ established by the Board for the investment of Deferred Compensation.

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"Minor" means a Beneficiary who is under age 18 at the time a benefit under this Plan becomes payable to him or her, unless Illinois law defines another age.

"Normal Retirement Age" means age 70½ unless the Participant has elected an alternative Normal Retirement Age by written instrument delivered to the Department within 30 days after the Participant's Severance of Employment as provided in Section 2700.510 of this Part. A Participant's Normal Retirement Age determines:

the latest time when benefits may commence under this Plan (unless the Participant continues employment after Normal Retirement Age); and

the period during which a Participant may utilize the three-year Catch-up provision of Section 2700.440 of this Part.

"Participant" means any Employee who has enrolled in this Plan as provided in Section 2700.410 of this Part and has not had a complete distribution of his or her Deferred Compensation Account.

"Pay Period" means a regular accounting period established by the State of Illinois for measuring and paying Compensation earned by Employees. A Pay Period may be monthly, semi-monthly or bi-weekly.

"Plan" means the State (of Illinois) Employees' Deferred Compensation Plan, as set forth in this Part, and as it may be amended from time to time.

"Plan Year" shall be the tax year as established by the Comptroller for payroll purposes.

"Prior Plan I" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on September 10, 1976.

"Prior Plan II" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on May 18, 1979.

"Prior Plan III" means the State Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700) adopted at 7 Ill. Reg. 10845, effective August 31, 1983.

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"Recordkeeper" means a non-fiduciary, non-discretionary entity that, under contract with the Board, performs functions as directed by the Board or Department, as appropriate, as described in this Part, in its contract with the Board, and as described in any other written agreements with the Board and/or the Department.

"Severance from Employment" means the permanent severance of the Participant's employment relationship with the Employer by means of:

retirement;

discharge;

resignation, provided seniority or continuous service is interrupted;

layoff, unless there is a designated date for return to paid status;

expiration or non-renewal of contract, appointment or term of office;

nonreelection; or

other form of permanent severance as may be provided by appropriate law, contract or rules and regulations.

For the purposes of this definition, neither a break in State service for a period of less than 30 days nor transfers among various branches of State Government shall be considered a Severance from Employment.

An independent contractor is considered to sever service with the Employer upon the expiration of all contracts under which services are performed for the Employer, if the expiration constitutes a good faith and complete termination of the contractual relationship.

"State" means State of Illinois.

"Unforeseeable Emergency" means severe financial hardship to the Participant resulting from an unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of

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events beyond the control of the Participant.

"Valuation Date" means the date on which an Investment ~~Option~~Fund is valued and earnings and/or losses are allocated to Participants' Deferred Compensation Accounts. There shall be a Valuation Date at least once a month and, if practical at the discretion of the Board, more frequent Valuation Dates to reflect, as closely as possible, the earnings and/or losses of any particular Deferred Compensation Account from the time Compensation is deferred and invested in various Investment ~~Options~~Funds until it is eventually distributed according to the Plan. It may also include each business day/the last day of the calendar month/the last day of the calendar quarter/each December 31.

- b) Except when otherwise indicated by context, any masculine terminology shall also include the feminine and neuter and vice-versa, and the definition of any terms in the singular may also include the plural.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART C: ADMINISTRATION

Section 2700.310 Responsibilities of the Board

- a) The Board has the responsibility for general supervision of the Plan, which shall include, but not be limited to:
- 1) establishment of the Plan,
 - 2) approving or disapproving any proposed changes in the Plan,
 - 3) if deemed necessary by the Board, obtaining Internal Revenue Service and Illinois Department of Revenue approval for the Plan or any amendments ~~to the Plan, thereto, and~~
 - 4) reviewing any and all proposed investment offerings, each of which must be determined acceptable by the Board prior to being utilized for the investment of Deferred Compensation, ~~;~~
 - 5) providing the Recordkeeper with the most recent copy of the Plan, a copy of the Plan's Internal Revenue Service determination letter, the Plan's

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administrative procedures and forms, the Plan's Investment Options and all Plan data and other documents necessary to perform its functions,

6) maintaining the tax qualification of the Plan under section 457 of the Code,

7) reviewing, selecting and approving the services to be provided by the Recordkeeper, and

8) resolving all benefit claims and claims appeals under the Plan.

- b) Following approval by the Board of one or more types of investments, if any, to be offered to Participants, the Board shall prepare specifications and make them available to known administrators or providers of that type of investment.
- c) The selection of the successful bidder for each investment will be based on the bidder's relative ability to provide the program as specified. The Board shall have the authority to:
- 1) waive minor informalities in bidding,
 - 2) accept more than one bid, and
 - 3) reject any and all bids.
- d) The Board has the responsibility for selecting the custodians to hold the assets of the Plan in accordance with ~~section~~Section 457(g) of the Code and for entering into related custodial agreements in connection ~~with the Plan~~therewith.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2700.315 Responsibilities of the Recordkeeper

The Recordkeeper shall:

- a) accept Plan contributions from the Department and cause those contributions to be invested among the Investment Options as directed by the Participant;
- b) process distributions upon receipt of information from the Department which

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indicating that a Participant is eligible for distribution;

- c) process changes to investment options, as directed by the Board;
- d) process changes to investment allocations, as requested by the Participant, provided that the allocation is made to one of the available Investment Options and that the allocation reconciles with the Department's instructions for allocating the contribution;
- e) provide the production, printing and assembly of enrollment kits for distribution to eligible employees and provide enrollment representatives to assist with employee meetings;
- f) process all requests for hardship distribution due to an Unforeseeable Emergency resulting from:
 - 1) divorce expenses
 - 2) funeral expenses
 - 3) family responsibility expenses
 - 4) real estate/relocation/natural disaster expenses
 - 5) unreimbursed medical expenses
 - 6) loss of income
 - 7) automobile insurance deductible expenses;
- g) review and forward all requests for hardship distribution for an Unforeseeable Emergency resulting from a cause not contemplated in Section 2700.315(f) to the Hardship Committee for review and determination;
- h) prepare and mail quarterly account statements to Participants;
- i) enter data provided by the Department into its recordkeeping system for the proper operation and maintenance of the records of the Plan;

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- j) provide Code section 457 compliance monitoring, monitor for compliance with laws governing the use of electronic media for providing employee benefits notices and making benefit elections and consents and monitor distributions in the normal course, plan-to-plan transfers and rollovers to ensure compliance with the terms of the Plan; and
- k) monitor, calculate and process required minimum distributions under section 401(a)(9) of the Code.

(Source: Added at 32 Ill. Reg. _____, effective _____)

Section 2700.320 Deferred Compensation Hardship Committee

- a) A Hardship Committee shall be formed that shall be responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution under Section 2700.740 of this Part.
- b) Members of ~~the this~~ Hardship Committee shall ~~be appointed by the Department but shall~~ include ~~at least~~:
 - 1) one Department employee, ~~and~~
 - 2) one representative of the Board, and
 - 3) one person appointed by the Department who is not an employee~~two persons not employees~~ of the Department.
- c) Members of this Committee shall be entitled to defer Compensation so long as they are otherwise eligible; however, no member of the Hardship Committee shall make any determination with respect to any interest that he or she may have under the Plan.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART D: PARTICIPATION IN THE PLAN

Section 2700.410 Enrollment

- a) Any Employee eligible to participate in the Plan may become a Participant by

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agreeing in writing, on a form to be provided under the Plan~~by the Department~~, to a deferment of his or her Compensation.

- b) The deferment will commence no sooner than the first Pay Period of the month following the date the form is properly completed by the Employee, accepted by the Department, and for which the Agency payroll has not closed.
- c) A new Employee may defer Compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the State.
- d) The amount to be deferred will be selected by the Participant and will be agreed to at the time of enrollment. This amount may not be less than the minimum amount allowable or exceed the basic annual limitation.
- e) The amount deferred may be changed by the Participant at any time. The change shall become effective no sooner than the first Pay Period of the month following the date the form is properly completed by the Employee and accepted by the Department.
- f) A Participant's request to defer Compensation shall remain in effect until the Participant's Severance from Employment, unless revoked prior to that time. The Department shall suspend deferrals for the remainder of the calendar year for Participants who have deferred in excess of the allowable maximum. The Department shall also withdraw and return to the Participant the excess amount deferred.
- g) Deferrals can be made by reductions in Compensation only.
- h) The Participant election shall also include the designation of Investment Options~~Funds~~ and a designation of Beneficiary. This election shall remain in effect until a new election is filed.
- i) Acceptance by the Department shall be granted whenever forms are properly completed and the criteria set by the Plan for acceptance are met.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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Section 2700.415 Designation of Beneficiary

- a) A Participant may designate a Beneficiary or Beneficiaries who will receive any balance in the Participant's Deferred Compensation Account in the event of his or her death.
- b) A designation of Beneficiary shall be effective for subsequent distributions when received by the Department. The designation shall be in writing on a form provided under the Plan~~by the Department~~ for that purpose that has been signed by the Participant.
- c) A Participant may, at any time, change his or her Beneficiary by completion of the form provided under the Plan~~by the Department~~.
- d) No Beneficiary shall have any rights under this Plan until the death of the Participant who has designated him or her and a separate account has been established by the Recordkeeper, at the direction of the Department, as provided for under this Section.
- e) Participants may designate primary and contingent Beneficiaries. A contingent Beneficiary's interest will become effective only upon the death of any and all primary Beneficiaries, or if any and all of the primary Beneficiary designations have been found invalid.
- f) If more than one Beneficiary is named in either category, benefits will be paid according to the following rules:
 - 1) Beneficiaries can be designated to share equally or to receive specific percentages.
 - 2) If a Beneficiary dies before the Participant, only the surviving Beneficiaries will be eligible to receive any benefits in the event of the death of the Participant. If more than two Beneficiaries are originally named to receive different percentages of the benefits, surviving Beneficiaries will share in the same proportion to each other as indicated in the original designation.
- g) A person, trust, estate or other legal entity may be designated as a Beneficiary.

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- h) If a Beneficiary has not been designated, or a designation is ineffective due to the death of all Primary and Contingent Beneficiaries prior to the death of the Participant, or the designation is ineffective for any reason, the estate of the Participant shall be the Beneficiary.
- i) Upon the death of the Participant, any Beneficiary entitled to the value of the Deferred Compensation Account under the provisions of this Section shall become a "vested Beneficiary" and have all the rights of the Participant, with the exception of making any deferrals.
- j) Before the account can be distributed, the Beneficiary must provide the Department with his or her Social Security Number and a certified copy of the Participant's death certificate.
- k) In the event of a conflict between the provisions of this Section and any annuity contract purchased prior to January 1, 1999, this Section shall prevail.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section 2700.610 Allocation of Investment Earnings or Losses

- a) To the extent that Investment OptionsFunds are established by the Board, Deferred Compensation Accounts shall be allocated among the Investment OptionsFunds according to the investment elections in effect on behalf of the Participants. Earnings and losses of each Investment OptionFund shall be based on the actual investment experience of the Investment OptionFund.
- b) Earnings and losses will be measured from the Valuation Date coincident with or immediately preceding the date on which any Deferred Compensation is invested in any Investment OptionFund to the Valuation Date coincident with or immediately preceding the date any Deferred Compensation is withdrawn from any Investment OptionFund.
- c) The amount of earnings or losses allocated to each Deferred Compensation Account shall reflect the proportion a Participant's Deferred Compensation Account in relation to the other Deferred Compensation Accounts having an interest in that OptionFund.

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(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2700.620 Investment ~~Option~~Fund Valuation

- a) Any Investment ~~Option~~Fund under this Plan shall be valued at fair market value as of each Valuation Date.
- b) Any withdrawals or distributions made under this Plan shall be made in cash by electronic transfer, or as authorized by the State.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2700.630 Administrative Costs

- a) It is the intent of this Plan that it shall not be implemented or administered so as to be an expense to the State of Illinois, except for the State's obligation to pay the Deferred Compensation Accounts as provided in this Plan. Therefore, any expenses of maintaining and administering the Plan shall be borne by the Participants. Cost shall include, but not be limited to, the costs of:
 - 1) making investments, exchanges, or distributions if any,
 - 2) collecting the Deferred Compensation, and
 - 3) providing information to Participants, Employees and other agencies of the State.
- b) The method of ~~allocating, calculating and deducting~~sharing any expenses ~~and the amount of those expenses~~ shall be determined by the ~~Department subject to the approval of the~~ Board.
- c) An asset charge at an annual rate not to exceed a cap of 1 percent (.01) shall be levied against the Account of each Participant in the Plan. This charge shall be assessed solely to offset the cost incurred by the State in administering the Plan. Any asset charge will be based on this cost, but in no case may the actual charge exceed the established cap.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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Section 2700.640 Method of Making Investment Requests

- a) A Participant shall, at the time of enrollment, make an investment request on a form provided for that purpose ~~under the Plan~~ ~~by the Department~~.
- b) Once made, an investment request shall continue for any deferments unless later changed by the Participant.
- c) A Participant may change investment requests for future amounts of Deferred Compensation an unlimited number of times.
- d) A change in investment request shall be made to the Plan's ~~Recordkeeper~~ ~~record keeper~~ by telephone notice or use of internet on-line access programs.
- e) A Participant may change an investment request governing amounts previously deferred. However, after June 1, 1994, amounts previously deferred into the stable value option shall not be exchanged directly or indirectly into a money market ~~or bond fund~~. Any exchange from the stable value option must first be exchanged into one of the other investment options for a period of 90 days.
- f) ~~There will be no charge for the first exchange each quarter of each Plan Year. Each additional exchange will be assessed a transaction charge of \$10.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2700.670 Investment ~~Options~~ Funds

- a) The Board may establish any or all of the following ~~Options~~ Funds for the investment of Deferred Compensation:
 - 1) Investment ~~Option~~ Fund A, which shall be invested primarily in savings and loan or commercial bank deposits, commercial paper, or guaranteed interest contracts of insurance companies.
 - 2) Investment ~~Option~~ Fund B, which shall be invested primarily in corporate or Government bonds or pooled investment vehicles, such as mutual funds, whose investment policies emphasize such investments.

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- 3) Investment ~~OptionFund~~ C₂, which shall be invested in insurance company contracts, either on a group or individual basis, designed to provide an annuity.
 - 4) Investment ~~OptionFund~~ D₂, which shall be invested primarily in common or preferred stocks, similar equity securities or other property expected to offer growth possibilities or pooled investment vehicles, such as mutual funds, whose investment policies emphasize such investments.
- b) The Board may establish more than one Investment ~~OptionFund~~ for each category described above if deemed appropriate.
 - c) The Board is specifically authorized to utilize outside investment managers to the extent deemed appropriate by the Board.
 - d) The Board also has the authority to eliminate any or all of the Investment ~~OptionsFunds~~ created by the Plan, provided that, in such event, ~~the Department shall notify~~ any Participant who has requested that his or her Deferred Compensation Account be measured as if invested in the Investment ~~OptionFund~~ or ~~Options thatFunds which~~ have been eliminated ~~shall be notified of the elimination~~. Any such Participant shall then have the opportunity to change his or her investment request or revoke his or her deferral pursuant to Section 2700.450, regardless of any other provision of this Plan.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2700.680 Rollovers to the Plan

- a) A Participant who is an Employee and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan.
- b) The Department may require documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that the plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code.
- c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible

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retirement plan, except that an eligible rollover distribution does not include:

- 1) any installment payment for a period of 10 years or more;
 - 2) any distribution made as a result of an Unforeseeable Emergency or other distribution that is made to a Participant; or
 - 3) for any other distribution, the portion, if any, of that distribution that is a required minimum distribution under section 401(a)(9) of the Code. Section 401(a)(9) of the Code outlines required distributions and the manner in which those distributions must be made.
- d) In addition, an eligible retirement plan means an individual retirement account described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code that accepts the eligible rollover distribution.
- e) The Recordkeeper, at the direction of the Department, Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under section 457(b) of the Code.
- f) In addition, the Recordkeeper, at the direction of the Department, Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is an eligible governmental plan under section 457(b) of the Code.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART G: DISTRIBUTIONS

Section 2700.700 Distribution Events

- a) Distributions under this Plan will be made in accordance with the regulations under section 401(a)(9) of the Code (26 CFR 54 (2005)). The provisions reflecting section 401(a)(9) override any distribution options in the Plan inconsistent with section 401(a)(9).

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- b) A Participant's Deferred Compensation Account may begin to be distributed 30 days after the date of one of the following events:
- 1) Severance from Employment,
 - 2) Death, or
 - 3) Delayed Distribution Date.
- c) A Participant's Deferred Compensation Account may begin to be distributed as soon as possible but not later than 30 days after determination of an Unforeseeable Emergency ~~by the Hardship Committee~~.
- d) A Participant, with \$5,000 or less in his or her Deferred Compensation Account, may elect to cash out the Account in compliance with conditions specified in Section 2700.735 of this Part.
- e) No distributions will be made to a Participant who is employed as an independent contractor before a date that is at least 12 months after the day on which his or her employment contract expires. Should the independent contractor be re-employed by the State as either an Employee or independent contractor during the 12-month waiting period, no distribution will be started on the projected distribution date. If the contractor has attained age 70½ at the time the contract is terminated, the 12-month waiting period is waived.
- f) Participants are responsible for notifying the Department of their Termination of Service.
- g) Beneficiaries are responsible for notifying the Department of the death of the Participant and supplying the Department with a certified copy of the Death Certificate.
- h) A Participant who does not receive the initial distribution until the calendar year following the year in which he or she reaches age 70½ or separates, if he or she works past age 70½, will receive at least 2 taxable distributions in the same year.
- i) If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.

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- j) An alternate payee, pursuant to the terms of a qualified domestic relations order, may at any time elect to receive a distribution of all or any portion of the amount held and maintained on behalf of the alternate payee upon the proper execution and designation under the qualified domestic relations order.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2700.730 Election of Method of Distribution

- a) In an election to commence benefits as provided for under Section 2700.700 of this Part, a Participant entitled to a distribution of benefits may elect to receive payment in any of the following forms of distribution:
- 1) a lump sum payment of the total Account Balance; or
 - 2) annual installment payments through the year of the Participant's death, the amount payable each year equal to a fraction of the Account Balance equal to 1 divided by the distribution period set forth in the Uniform Lifetime Table at 26 CFR 1.401(a)(9)-9, A-2 (2005) for the Participant's age on the Participant's birthday for that year.
 - A) If the Participant's age is less than age 70, the distribution period is 27.4 plus the number of years that the Participant's age is less than age 70.
 - B) At the Participant's election, this annual payment can be made in monthly, quarterly or semi-annual installments.
 - C) The Account Balance for this calculation (other than the final installment payment) is the Account Balance as of the end of the year prior to the year for which the distribution is being calculated.
 - D) For any year, the Participant can elect distribution of a greater amount (not to exceed the amount of the remaining Account Balance) rather than the amount calculated under subsection (a)(2)(C).
- b) A Participant or the surviving spouse of a Participant (or a Participant's former

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spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed ~~under the Plan~~by the Department, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover. An eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403 (b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.

- c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's Account Balance, except that an eligible rollover distribution does not include:
- 1) any installment payment under subsection (a) ~~of this Section~~ for a period of 10 years or more;
 - 2) any distribution made under Section 2700.740 ~~of this Part~~ as a result of an Unforeseeable Emergency; or
 - 3) the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) ~~of the Code~~ other than those distributions described in subsections (c)(1) and (c)(2).
- d) In no event shall any distribution under this Section begin later than the latter of:
- 1) April 1 of the year following the calendar year in which the Participant attains age 70½; or
 - 2) April 1 of the year following the year in which the Participant retires or otherwise has a Severance from Employment.
- e) If distributions commence in the calendar year following the latter of the calendar year in which the Participant attains age 70½ or the calendar year in which the Severance from Employment occurs, the distribution on the date that distribution commences must be equal to the annual installment payment for the year that the Participant has a Severance from Employment determined under subsection (a)(2)

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~~of this Section~~, and an amount equal to the annual installment payment for the year after Severance from Employment determined under subsection (a)(2) ~~of this Section~~ must also be paid before the end of the calendar year of commencement.

- f) Any election made under this Section may be revoked at any time.
- g) Any portion of the Deferred Compensation Account that has not been distributed shall continue to be credited and/or debited according to the provisions of Sections 2700.600 and 2700.610 ~~of this Part~~.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2700.740 Unforeseeable Emergency

- a) A distribution of all or a portion of a Participant's Deferred Compensation Account or a change in method of distribution to a Participant shall be permitted in the event the Participant experiences an Unforeseeable Emergency.
- b) Distributions shall not be made to the extent that the hardship is or may be relieved:
 - 1) through reimbursement or compensation by insurance or otherwise;
 - 2) by liquidation of the Participant's assets to the extent the liquidation of assets would not itself cause severe financial hardship; or
 - 3) by cessation of deferrals under the Plan.
- c) A Participant's deferrals will automatically be revoked upon application for a hardship distribution.
- d) If the application is approved, the Participant cannot re-enroll for 6 months following receipt of the hardship application, unless the application is to request cessation of distribution payments.
- e) For the purposes of this Plan, a Beneficiary whose interest has "vested" in accordance with Section 2700.415 ~~of this Part~~ shall have all rights of a Participant to request a distribution in the event of an Unforeseeable Emergency.

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- f) A Participant desiring a distribution by reason of a serious Unforeseeable Emergency must apply to the ~~Recordkeeper~~Hardship Committee and demonstrate that:
- 1) the circumstances being experienced were not under the Participant's control, and
 - 2) the circumstances constitute a real emergency that is likely to cause the Participant great financial hardship.
- g) The ~~Recordkeeper~~Hardship Committee shall have the authority to require medical or other evidence as it may need to determine the necessity for Participant's withdrawal request. In the event this information is not provided, the case will be considered closed 60 days after the date of ~~the request~~ for additional information by the Hardship Committee.
- h) The ~~Recordkeeper~~Hardship Committee shall reach its decision to ~~process or reject~~approve or disapprove the financial hardship withdrawal request, in accordance with Section 2700.315(f), within 30 days following receipt of the completed application and necessary information required by the application ~~or the Hardship Committee~~.
- i) In the event the basis for the hardship does not fall into the guidelines established by Section 2700.315(f), the Recordkeeper shall forward all relevant information to the Hardship Committee for consideration and a final decision. a Participant is not satisfied with the decision of the Hardship Committee on an application for an Unforeseeable Emergency distribution or change in distribution, the Participant may appeal in writing to the Board within 15 days after receipt of the Hardship Committee's decision.
- j) The Hardship Committee may request additional information from the Participant in order to make its decision on applications processed through either subsection (h) or (i). The Hardship Committee shall reach its decision within 30 days after receipt after the application and information necessary to reach a final determination.
- k) If a Participant is not satisfied with the decision of the Hardship Committee on an application for an Unforeseeable Emergency distribution or change in

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distribution, the Participant may appeal in writing to the Board within 15 days after receipt of the Hardship Committee's decision.

- lj) The Board shall, within 30 days after receipt of the appeal, conduct a hearing and review evidence presented by the Participant.
- mk) The Board shall then render a final decision within 15 days after the hearing that shall be binding on all parties.
- nl) If an application for an Unforeseeable Emergency distribution is approved, the distribution shall be limited to an amount sufficient only to meet the emergency and shall in no event exceed the amount of his or her Deferred Compensation Account as of the Valuation Date next preceding or coincident with the withdrawal.
- om) The allowed distribution shall be payable in a method determined by the Recordkeeper~~Hardship Committee~~ and shall commence as soon as possible, but not later than 30 days after notice to the Participant and the Department of approval of the request ~~by the Committee~~.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2700.745 Plan-to-Plan Transfers from the Plan

- a) Participants and Beneficiaries may elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of section 457(b) of the Code and 26 CFR 1.457-2(f) (2005).
- b) A transfer is permitted under this Section only if:
 - 1) the Participant has had a Severance from Employment with the State and is an employee of the entity that maintains the other eligible governmental plan; and
 - 2) the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

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- c) Upon the transfer of assets under this Section, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount transferred for the Participant or Beneficiary.
- d) The RecordkeeperDepartment may require documentation from the receiving plan as it deems appropriate or necessary to comply with this Section or to effectuate the transfer pursuant to 26 CFR 1.457-10(b) (2005).

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART H: MISCELLANEOUS

Section 2700.810 Payments to Minors and Incompetents

If the Department is notified that a Participant or Beneficiary entitled to receive any benefit under this Plan is adjudicated by a Court of Law to be mentally incompetent, or that a Beneficiary is a minor at the time when a benefit under this Plan becomes payable to him or her, the Department shall, upon receipt of a Court order, direct the Recordkeeper to authorize payment of thesuch benefit to anysuch other person or institution, including a custodian under any State's Gift to Minors Act, who has been duly appointed as the Participant's or Beneficiary's guardian, or asuch person or institution who is then maintaining or has custody of the Participant or Beneficiary, or to a Court of Law for distribution pursuant to that Court's order.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
140.490	Amendment
140.494	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: The proposed amendments are to implement P.A. 95-501 that provides, beginning with dates of service on or after July 1, 2008, medicar and service car transportation providers must certify that the drivers and employee attendants, if applicable, transporting participants of HFS' medical programs have completed a safety training program.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.6	Amendment	31 Ill. Reg. 13570; October 5, 2007
140.82	Amendment	32 Ill. Reg. 298; January 11, 2008
140.11	Amendment	32 Ill. Reg. 1553; February 8, 2008
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/557-7157

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

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

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid-funded medicare and service car transportation providers
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination or Revocation on Persons Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination,

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	Suspension or Barring
140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Sanctioned Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)

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- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)

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140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section

140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
140.405	SeniorCare Pharmaceutical Benefit (Repealed)
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
140.420	Dental Services
140.421	Limitations on Dental Services
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7

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Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill.

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Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days;

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emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective

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December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252,

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effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective

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December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150

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days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; amended at 32 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.490 Medical Transportation

- a) Payment for medical transportation shall be made to an individual, public, private or not-for-profit transportation carrier, whose operators are properly licensed, who provides the appropriate form of transportation and who bills and receives payment from the general public and other third party payors (except for private autos pursuant to subsection (a)(5) of this Section). Eligible providers to be considered for payment include:
 - 1) Ambulance providers who hold a valid license, permit or certification from the state where the business is headquartered or from the Secretary of State (see Section 3-401 of the Illinois Vehicle Title and Registration Law [625 ILCS 5/3-401] and Section 8-101 of the Illinois Vehicle Code [625 ILCS 5/8-101]) and pass health/safety inspections annually by the Department of Public Health (see the Emergency Medical Services (EMS) Systems Act [210 ILCS 50]). Out-of-state ambulance providers who provide services within Illinois must be in compliance with the EMS Systems Act [210 ILCS 50]. Vehicles operated by municipalities must

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meet the certification requirements contained in 77 Ill. Adm. Code 535, Subpart C, by July 1, 1987. The Department will grant exceptions to this requirement if the municipality can demonstrate that the Illinois Department of Public Health has granted a waiver or exception to such requirement.

- 2) Medicar vehicles licensed by the Secretary of State (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or that hold a valid license, permit or certification from the state where the business is headquartered.
 - 3) Taxicabs licensed by the Secretary of State and where applicable by local regulatory agencies (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or that hold a valid license, permit or certification from the state where the business is headquartered.
 - 4) Service cars licensed as livery cars by the Secretary of State and where applicable by local regulatory agencies (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or that hold a valid license, permit or certification from the state where the business is headquartered.
 - 5) Private automobiles licensed by the Secretary of State (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or licensed in the state of the owner's residence.
 - 6) Helicopter providers who hold a valid license from the State of Illinois issued under the authority of the State of Illinois Department of Public Health, or are licensed in the state where services are provided.
 - 7) Other modes of transportation such as buses, trains and commercial airplanes.
- b) Except as provided in subsection (c) of this Section, payment for medical transportation shall be made when transportation is provided for an eligible recipient to or from a source of medical care. Medical care is defined as any medically necessary service covered under the Medical Assistance Program. Payment for transportation will be made even when a covered medical service is

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provided free of charge or is reimbursed by a third party (for example, services provided by the U.S. Department of Veterans' Affairs).

- c) Payment for medical transportation shall not be made when:
 - 1) A means of transportation to the source of medical care is available free of charge;
 - 2) The transportation is for the purpose of filling a prescription or obtaining medical supplies, equipment or any other pharmacy related item; or
 - 3) Proper prior or post approval authorization has not been made by the Department or its authorized agent.
- d) When more than one passenger requiring medical services is transported, payment for the first passenger will be at the full rate including mileage, base rate and ancillaries, if provided; payment for the second or additional passengers requiring medical services will be at only the base rate and ancillaries, if provided.
- e) Coverage for an employee attendant and a non-employee attendant.
 - 1) For the purposes of this subsection (e):
 - A) "Employee attendant" means a person, other than the driver, who is an employee of a medicar, service car or taxicab.
 - B) "Non-employee attendant" means a family member or other individual who may accompany the patient when there is a medical need for such an attendant.
 - 2) The Department will pay for an attendant to accompany an eligible patient to and from the source of a covered medical service, by a medicar, a service car or a taxicab, when the circumstances constitute one of the following medical necessities. A physician's statement may be required to verify the medical necessity.
 - A) To accompany the patient to a medical provider when needed, such as a parent going with a child to the doctor or when an attendant is needed to assist the patient;

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- B) To participate in the patient's treatment when medically necessary;
or
 - C) To learn to care for the patient after discharge from the hospital.
- 3) The Department does not pay for transportation of family members to visit a hospitalized patient.
 - 4) For dates of service prior to July 1, 2006, the use of an attendant is subject to prior approval in all situations except for the non-emergency trips described in Section 140.491(b)(2). In the instances that prior approval is not required for an attendant, medical necessity must be documented in the record. The Department's authorized prior approval agent may require documentation of medical necessity. A medicar company may bill for the services of an employee and a non-employee attendant. Billings for the services of an employee attendant and a non-employee attendant are allowable when such services are rendered during a single trip. Service car and taxicab providers may receive payment only for a non-employee attendant.
 - 5) For dates of service on or after July 1, 2006, the use of an attendant is subject to prior approval in all situations except for the non-emergency trips described in Section 140.491(b)(2). In the instances in which prior approval is not required for an attendant, medical necessity must be documented in the record. The Department's authorized prior approval agent may require documentation of medical necessity. A medicar, service car or taxicab may bill for the services of an employee and a non-employee attendant.
- f) Safety Program Certification Requirement
- 1) For dates of service on or after July 1, 2008, all drivers and employee attendants of medicar and service car providers transporting participants of the Department's Medical Assistance programs must have completed a safety program approved by the Department, prior to transporting the participant.

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- 2) Drivers and employee attendants transporting participants of the Department's Medical Assistance programs must complete an approved safety program every three years. Documentation certifying completion of an approved safety program must be maintained by the transportation provider and available to the Department upon request. The safety program certification shall not be issued by an entity affiliated with the transportation provider.
- 3) The names of the driver and employee attendant actually transporting the participant shall be documented in the medical transportation service record as required at Section 140.494(a).
- 4) Failure of the transportation provider to maintain and, upon request from the Department, produce the documentation of required training shall result in the recovery of all payments made by the Department for services rendered by a non-certified driver or employee attendant.
- 5) Medicar and service car providers receiving federal funding under 49 USC 5307 or 5311 shall not be subject to the Safety Program Certification requirement during the period of federal funding. Documentation of the federal funding period must be available to the Department upon request.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 140.494 Record Requirements for Medical Transportation Services

- a) The record must, at a minimum, contain a dispatcher's log and individual trip tickets that document:
 - 1) Identification of the client (name, address and client number);
 - 2) Name and address or facility name of person or entity requesting service;
 - 3) A copy of the Transportation Invoice;
 - 4) Identification of the type of vehicle used (for example, ambulance, medicar, service car) and the vehicle's license plate number; and
 - 5) The name of the driver and attendant, if applicable.

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- b) The trip ticket must document medical necessity for the following:
- 1) Non-emergency transportation that does not require prior approval;
 - 2) Use of an ambulance;
 - 3) Administration of oxygen;
 - 4) Use of an attendant by a medicar, service car or a taxicab company; and
 - 5) Use of a stretcher by a medicar.
- c) Advanced Life Support transportation services must also maintain a copy of the Emergency Medical Services Run Sheets or other forms as required by the Illinois Department of Public Health.
- d) [In absence of proper and complete records, including, but not limited to, failure to provide documentation of safety training certification as required in Section 140.490\(f\), payments previously made shall be recouped.](#)

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Discrimination Involving Credit
- 2) Code Citation: 38 Ill. Adm. Code 800
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
800.30	Amendment
800.40	Amendment
- 4) Statutory Authority: Implementing Section 4-104(B) and (C) and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/4-104(B) and (C) and 7-101(A)].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Section 1-103(I) of the Illinois Human Rights Act (Act) [775 ILCS 5/1-103(I)], the word "Handicap" has been replaced with the word "Disability". The proposed amendments clarify the Department's regulations to make the regulations consistent with the Act.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objective: The proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments in writing within 45 days after publication to:

David T. Rothal
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601

312/814-6257 or
312/263-1579 (TTY)

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- 12) 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
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: The Department did not anticipate the proposed rulemaking.

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

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TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER VI: DEPARTMENT OF HUMAN RIGHTSPART 800
DISCRIMINATION INVOLVING CREDIT

Section	
800.10	Scope and Purpose (Repealed)
800.20	Coverage (Repealed)
800.30	Definitions
800.40	Inquiries of Credit Applicants
800.50	Empirically Derived Credit Systems
800.60	Special Credit Programs

AUTHORITY: Implementing Section 4-104(B) and (C) and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/4-104(B) and (C) and 7-101(A)].

SOURCE: Adopted at 7 Ill. Reg. 9889, effective August 15, 1983; codified at 8 Ill. Reg. 15926; amended at 22 Ill. Reg. 6659, effective March 27, 1998; amended at 32 Ill. Reg. _____, effective _____.

Section 800.30 Other Definitions

As used in the Act and these regulations, the following terms have the meanings indicated:

~~"Age - ". The term "age" means~~ the chronological age of a person ~~who is 40 but not yet 70 years old.~~

~~Disability - "Handicap". The term "handicap" refers to~~ a determinable physical or mental characteristic of a person (including a characteristic requiring the person's use of a guide or hearing dog), or the history of ~~the such a~~ characteristic, or the perception of ~~the such a~~ characteristic by the person complained against, which characteristic results from disease, injury, congenital condition of birth or functional disorder but is unrelated to the person's ability to repay the indebtedness in question.

~~"Marital Status" - . The term "marital status" means~~ the legal status of being married, single, separated, divorced or widowed.

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~~"Prohibited Characteristic - ". The term "prohibited characteristic" refers to any characteristic, or combination of characteristics thereof, the consideration of which constitutes "unlawful discrimination" under Section 1-103(Q) of the Act; namely, the characteristics of race, color, religion, national origin, ancestry, age, sex, marital status, handicap, and unfavorable discharge from military service, as those terms are defined in the Act and these rules.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 800.40 Permissible Inquiries of Credit Applicants.

- a) Generally. Except as expressly authorized in this Section, or in ~~Section~~Sections 800.50 or 800.60 of this ~~Part~~part, or under any law of the United States or the State of Illinois, a financial institution or credit card offeror may not inquire of any applicant for a loan or credit card regarding any characteristic the consideration of which would constitute unlawful discrimination under the Act. This shall not mean, however, that a mortgage lender is prohibited from inquiring of applicants regarding their race, national origin, age, sex and marital status, to the extent required for federal monitoring purposes under Section 202.13 of Regulation B of the Board of Governors of the Federal Reserve System, (12 CFR 202.13), as long as the inquiry is made in conformity with the requirements of that regulation.
- b) Pertinent Elements of Credit-Worthiness. Section 4-104(B)(1) of the Act provides that financial institutions and credit card offerors are not precluded from: *making an inquiry of the applicant's age, permanent residence, immigration status, or any additional information if such inquiry is for the purpose of determining the amount and probable continuance of income levels, credit history, or other pertinent element of credit-worthiness as provided in regulations of the Department.* Under this exemption, the following inquiries are permissible for the purposes and under the circumstances indicated:
 - 1) Age. A creditor may inquire into an applicant's age to ensure that the applicant has the legal capacity to enter into a binding contract; to assess, from the applicant's occupation and probable length of time to retirement, whether the applicant's income (including retirement income) will support the extension of credit to its maturity; to weigh the adequacy of any collateral offered to secure the transaction against the life expectancy of the applicant; or to evaluate the significance of the applicant's length of

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employment or residence. A creditor may also inquire of an applicant's age in connection with an application for credit insurance, to determine the conditions on which ~~such~~ insurance may be available to the applicant.

- 2) Permanent Residence and Immigration Status. A creditor may inquire into an applicant's permanent residence and immigration status to determine its rights and remedies regarding repayment, provided the inquiry is made uniformly of all applicants without regard to race, national origin or other prohibited characteristic.
- 3) Sex and Marital Status. A creditor may not request the sex of an applicant, but may request the designation of a title from among "Ms.," "Miss," "Mr." or "Mrs.", if the designation is clearly denominated as optional with the applicant. If the application is for individual unsecured credit and the applicant does not reside in a community property state, the creditor may not request the applicant's marital status; otherwise, the applicant may be required to disclose marital status from among "Married", "Unmarried" and "Separated", and the creditor may explain that "Unmarried" applies to single, divorced and widowed persons. A creditor may not request information regarding an applicant's childbearing capacity or intentions, or birth control practices. A creditor may, however, inquire about the number and ages of an applicant's dependents, about dependent-related financial obligations (e.g., medical and educational expenses attributable to the applicant's responsibility for a dependent), and about the applicant's liability to pay alimony or child support, if ~~the such~~ information is requested uniformly of all applicants without regard to sex or marital status or any other prohibited characteristic. A creditor may request the sex and marital status of an applicant in connection with an application for credit insurance, for purposes of determining the conditions on which ~~such~~ insurance may be available to the applicant. A creditor may also request the marital status of an applicant for the limited purpose of ascertaining its rights and remedies regarding repayment.
- 4) Spousal Information.
 - A) A creditor may not request information concerning an applicant's spouse or former spouse unless:
 - i) the spouse will be permitted to use the account or will be

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contractually liable upon it;

- ii) the applicant relies on the spouse's income or on alimony or kindred payments (e.g., separate maintenance, child support) from the spouse to repay the indebtedness; or
- iii) the applicant resides in, or property securing the indebtedness is located in, a community property state.

B) ~~When~~~~Where~~ any of the ~~above~~ criteria contained in subsection (b)(4)(A) of this Section is satisfied, the creditor may request information regarding the applicant's spouse only to the extent that ~~the~~~~such~~ information may be requested about an applicant under this Section.

- 5) **Source of Income.** A creditor shall advise applicants, before inquiring generally into their available income, that they need not disclose income derived from alimony, child support or separate maintenance payments if they do not desire that income considered in evaluating their creditworthiness. This advice is not required, however, if the terms of the inquiry are sufficiently specific (e.g., focused exclusively on employment income) as to reasonably preclude disclosure of alimony, child support or separate maintenance. A creditor may inquire whether any of an applicant's listed income is derived from a public assistance program, to evaluate the likely continuation and future reliability of those payments, and to ascertain its rights and remedies regarding repayment, if the inquiry is made uniformly of all applicants without regard to a prohibited characteristic.
- 6) ~~Disability~~~~Handicap~~. A creditor may not inquire whether an applicant has a ~~disability~~~~handicap~~. If any income listed by the applicant is derived from disability or public assistance benefits occasioned by a ~~disability~~~~handicap~~, however, the creditor may request information regarding the nature and duration of the condition for purposes of evaluating the probable continuation and future reliability of that income. A creditor may also inquire into an applicant's physical condition in connection with an application for credit insurance, to determine the conditions on which ~~such~~ insurance may be available to the applicant.

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(Source: Amended at 32 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Procedures of the Department of Human Rights
- 2) Code Citation: 56 Ill. Adm. Code 2520
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2520.10	Amendment
2520.560	Amendment
2520.573	Amendment
2520.587	Amendment
2520.795	Amendment
- 4) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment to Section 2520.573 clarifies the Department's Request for Review procedures that were modified in a recent amendment to the Illinois Human Rights Act. The proposed amendment to Section 2520.587 modifies the Department's regulations to limit the time period when the Chief Legal Counsel's Orders are published on the internet and to limit the time periods for maintaining orders at the Department and in archives. As to Section 2520.795, pursuant to Section 2-105(B)(1) of the Illinois Human Rights Act [775 ILCS 5/2-105(B)(1)], every State executive department, State agency, board, commission, and instrumentality must comply with the Department's Rules and Regulations concerning equal employment opportunities and affirmative action. The proposed amendment makes several changes to clarify the standards used by the Department to determine compliance with the Act, as well as the process used by the Department to compel compliance.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Illinois Department of Employment Security Workforce Availability Information Publication
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed amendment to Section 2520.573 clarifies the Department's existing procedures in the context of a recent amendment to the Illinois Human Rights Act. The proposed amendment to Section 2520.587 will balance the interests of protecting the privacy of parties to charge and making orders of the Chief Legal Counsel accessible to the public. The proposed amendment to Section 2520.795 will assist the Department in enforcing the affirmative action requirements for State executive agencies mandated by Section 2-105(B)(1) of the Illinois Human Rights Act [775 ILCS 5/2-105(B)(1)], and to promote equal opportunity for State residents. The proposed amendment does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments in writing within 45 days after publication to:
- David T. Rothal
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601
- 312/814-6257 or 312/263-1579 (TTY)
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER II: DEPARTMENT OF HUMAN RIGHTS

PART 2520

PROCEDURES OF THE DEPARTMENT OF HUMAN RIGHTS

SUBPART A: INTERPRETATIONS

Section	
2520.10	Definition of Terms
2520.20	Computation of Time
2520.30	Service of Documents
2520.40	Filing with the Department
2520.50	Separability
2520.110	Preservation of Records by Employers, Labor Organizations, Employment Agencies and Respondents

SUBPART B: CHARGE

Section	
2520.310	Time of Filing (Repealed)
2520.320	Form (Repealed)
2520.330	Contents
2520.340	Requirements for Charge (Repealed)
2520.350	Unperfected Charge
2520.360	Amendment
2520.370	Substitution and Addition of Parties (Repealed)
2520.380	Withdrawal of Charge

SUBPART C: PROCEDURE UPON CHARGE

Section	
2520.405	Verified Response to Charge
2520.410	Docketing and Service of Charge (Repealed)
2520.420	Maintenance of Records (Repealed)
2520.430	Investigation
2520.440	Fact-Finding Conference
2520.450	Administrative Closure (Repealed)
2520.460	Determination After Investigation (Repealed)

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- 2520.470 Conciliation (Repealed)
- 2520.480 Complaint (Repealed)

SUBPART D: SETTLEMENTS

Section

- 2520.510 Settlement
- 2520.520 Non-Disclosure (Repealed)
- 2520.530 Dismissal for Refusal to Accept Settlement Offer (Repealed)
- 2520.540 Non-Compliance with Settlement Terms (Repealed)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section

- 2520.550 Administrative Closure
- 2520.560 Dismissal
- 2520.570 Default

SUBPART F: REQUESTS FOR REVIEW

Section

- 2520.573 Filing with Chief Legal Counsel
- 2520.575 Contents of Request for Review
- 2520.577 Notice by the Chief Legal Counsel
- 2520.580 Extensions of Time
- 2520.583 Reply to Request for Review and Surreply
- 2520.585 Additional Investigation
- 2520.587 Decision

SUBPART G: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section

- 2520.610 Scope and Purpose (Repealed)
- 2520.620 Definitions (Repealed)
- 2520.630 Cooperative Agreements
- 2520.640 Nature of Cooperative Agreements
- 2520.650 Training and Technical Assistance
- 2520.660 Promotion of Communication and Goodwill

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SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

Section

2520.700	Definitions
2520.710	Scope and Purpose
2520.720	Affirmative Action Groups
2520.730	Consideration of Additional Groups
2520.740	Definitions (Renumbered)
2520.750	Nondiscrimination (Repealed)
2520.760	Plans
2520.770	Reporting and Record-Keeping
2520.780	Equal Employment Opportunity Officers
2520.790	Complaint Process
2520.795	<u>EEO/AA Performance</u> <u>Compliance</u> Reviews
2520.797	Sanctions for Noncompliance

2520.APPENDIX A	Contents of Affirmative Action Plans
2520.APPENDIX B	Value Weight Assignment Chart
2520.APPENDIX C	Contents of Layoff Reports
2520.APPENDIX D	Illinois Counties by Region

AUTHORITY: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 6 Ill. Reg. 2125, effective February 8, 1982; amended at 6 Ill. Reg. 3076, effective March 15, 1982; amended at 6 Ill. Reg. 8090, effective July 1, 1982; codified at 8 Ill. Reg. 17884; amended at 17 Ill. Reg. 15556, effective September 13, 1993; amended at 18 Ill. Reg. 16829, effective November 4, 1994; emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 5084, effective March 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6291, effective April 18, 1996; amended at 20 Ill. Reg. 10631, effective July 24, 1996; amended at 21 Ill. Reg. 14081, effective October 10, 1997; amended at 26 Ill. Reg. 17217, effective November 18, 2002; amended at 29 Ill. Reg. 804,

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effective December 28, 2004; amended at 30 Ill. Reg. 1343, effective January 13, 2006; amended at 30 Ill. Reg. 13403, effective July 31, 2006; amended at 30 Ill. Reg. 18715, effective November 20, 2006; amended at 31 Ill. Reg. 12319, effective August 8, 2007; amended at 31 Ill. Reg. 14815, effective October 19, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART A: INTERPRETATIONS

Section 2520.10 Definition of Terms

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

Act – the Illinois Human Rights Act [775 ILCS 5].

Charge – an allegation of a civil rights violation filed with or initiated by the Department, and with regard to Subpart F, one filed with a local human rights agency.

Chief Legal Counsel – the Chief Legal Counsel of the Department or a duly authorized designee.

Commission – the Illinois Human Rights Commission or, where appropriate, a panel of three Commissioners.

Complainant – a person who files a charge or a complaint, including the Department in the case of a charge initiated by the Department.

Complaint – a written complaint for hearing filed with the Commission.

Days – calendar days.

Department – the Department of Human Rights.

Director – the Director of the Department or a duly authorized designee.

Local Agency – any department, commission or other instrumentality of a municipality or other political subdivision of the State of Illinois, or of two or more such political subdivisions acting jointly, which is duly established to serve purposes consistent with those of the Act.

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Party – the complainant or respondent.

Person – an entity as described in Section 1-103 of the Act [775 ILCS 5/1-103].

Request for Review – as to charges filed with the Department before January 1, 2008, an appeal filed with the Chief Legal Counsel as described in Section 7A-102(D)(3) Sections 7-101.1 and 7-112 of the Act [775 ILCS 5/7 A-102(D)(3)] [725 ILCS 5/7-101.1 and 7-112]. As to charges filed with the Department on or after January 1, 2008, an appeal filed with the Commission as described in Section 7A-102(D)(3) of the Act.

Respondent – a person against whom a charge or complaint is filed.

Unlawful Discrimination – any form of discrimination prohibited under the Act or under a local ordinance administered by a local agency.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section 2520.560 Dismissal

- a) The Department shall serve upon the parties a written notice of dismissal of all or part of a charge. For charges filed before January 1, 1996, or on or after January 1, 2008, the notice will state the grounds for dismissal and that the complainant may obtain review by the Commission by filing a request for review within 30 days after receipt of the notice. For charges filed on or after January 1, 1996 and before January 1, 2008, Subpart F of this Part shall apply and the notice shall state the grounds for the dismissal and that the complainant may obtain review by the Chief Legal Counsel by filing a request for review within 30 days after receipt of the notice.
- b) The dismissal may be based upon:
 - 1) lack of substantial evidence of discrimination or lack of jurisdiction. An investigation report discussing the reasons for the dismissal shall accompany the notice of dismissal;
 - 2) complainant's failure to proceed, as provided in Section 2520.430(c) of

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this Part. The notice of dismissal in such cases shall specify the manner in which the complainant has failed to proceed and shall be addressed to the complainant at the last known address; or

- 3) complainant's failure to accept a settlement offer, pursuant to Section 7A-103(D) of the Act [775 ILCS 5/7A-103(D)]. The notice in such cases shall specify the reasons for the Department's dismissal.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART F: REQUESTS FOR REVIEW

Section 2520.573 Filing with Chief Legal Counsel

For charges filed on or after January 1, 1996 and before January 1, 2008:

- a) A Complainant may request review by the Chief Legal Counsel of a determination by the Director to dismiss one or more allegations of a charge for:
 - 1) lack of substantial evidence;
 - 2) lack of jurisdiction;
 - 3) failure of a Complainant to proceed; or
 - 4) failure of a Complainant to accept a settlement offer.
- b) A Respondent may request review by the Chief Legal Counsel of a decision by the Director to issue a notice of default.
- c) Any ~~such~~ request for review must be filed with the Chief Legal Counsel at the Department's Chicago office within 30 days after receipt of the Department's notice of the decision.
- d) Neither the parties nor the Department may communicate directly or indirectly with the Chief Legal Counsel or staff attorney assigned to a request for review in connection with any issue, except in writing with copies to all parties and the Department.

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- e) If resources permit, the Chief Legal Counsel shall not assign a request for review to the staff attorney who has conducted the substantial evidence review. The Chief Legal Counsel shall have sole discretion over assignment of requests for review.
- f) Proceedings on requests for review shall toll the time limitation established in Section 7A-102(G)(1) or Section 7B-102(G) of the Act from the date on which the Director's notice of dismissal or default is issued to the date on which the order of the Chief Legal Counsel of the Department is entered.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2520.587 Decision

If, after a de novo review of the Director's decision to dismiss a charge or issue a Notice of Default, the Chief Legal Counsel determines that the Director's decision should be sustained, he/she shall enter an order stating the findings and reasons for that determination. Otherwise, the Chief Legal Counsel shall order that the dismissal or default be vacated and either the charge be returned to the Charge Processing Division of the Department for additional investigation~~work~~ or a substantial evidence finding be entered. The Chief Legal Counsel shall cause the order to be served on the Director and all parties to the charge and to be timely published on the Department's website. The order shall remain on the Department's website for a period of two years from the date the order is entered. The order shall be removed from the website and maintained in hard copy at the Department's office in Chicago, Illinois for an additional two years. After the expiration of the two-year period, the Department shall send the order to the Illinois State Archives and it will be available for public inspection for an additional five years. In the case of a default that is sustained, a copy of the order shall also be served on the Human Rights Commission, so that it may conduct further proceedings pursuant to Section 7-101.1(C) of the Act.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

**SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES****Section 2520.795 EEO/AA Performance~~Compliance~~ Reviews**

The Department ~~shall~~may conduct periodic performance~~compliance~~ reviews of all agencies. On a quarterly basis, the EEO/AA reports submitted by agencies will be reviewed and the results of the review shall be shared with the agency in question, indicating whether corrective action is

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needed. On an annual basis, the Department shall determine whether each agency is in~~any agency to determine~~ compliance with the EEO and affirmative action obligations of the Act and this Subpart. In the course of such a review, the Department may request documentation and reports reflecting the agency's employment practices and profile, and may visit the agency's worksites~~worksite(s)~~ and interview employees.

- a) EEO/AA Compliance Criteria – The Department shall judge the agency's concerted effort and progress to provide equal employment opportunity and affirmative action for minorities, women and disabled persons, using the following criteria:
- 1) existence of an approved plan;
 - 2) demonstration of the implementation of the agency's goals within the timeframe cited in the agency's plan. In order to be found in compliance with numerical goals, the percentage of an agency's hires and promotions for minorities and females in underutilized categories must equal or exceed 80% of the statewide labor market availability rate of minorities and females in question. When agency underutilization is confined to one region of the State or one affirmative action group, the labor market availability rate of that region or affirmative action group will be considered. In determining whether an agency made a concerted effort, the Department will evaluate the agency's overall actions taken over the course of the fiscal year to reduce its underutilization when there have been opportunities to hire and/or promote in underutilized categories~~at least 25% of an agency's hires or promotions in EEO job categories for which goals have been developed and cited in the agency's plan must be filled in accordance with those goals.~~ Compliance with program goals will be determined by an agency's documentation that those goals have either been achieved or a demonstration of a concerted effort to achieve those goals;
 - 3) demonstration that the agency's EEO/AA policy has been disseminated throughout the agency;
 - 4) documentation of the inclusion of EEO/AA principles and procedures in appropriate in-service training programs;
 - 5) documentation of the inclusion of the agency's EEO Officer in the

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investigation and disposition of all internal and external discrimination grievances and complaints;

- 6) maintenance and timely submission of appropriate employment data and reports as required in this Subpart and by federal authorities;
 - 7) in an agency with 1,000 or more employees, documentation of the appointment, with the Director's approval, of an EEO Officer;
 - 8) in an agency with fewer than 1,000 employees, documentation of the designation of an EEO Officer who may serve as a full-time EEO Officer or be responsible for other duties within the agency beyond those of an EEO Officer; and
 - 9) documentation that the agency's EEO Officer has performed the duties and responsibilities outlined in the Act and this Subpart.
- b) EEO/AA Profile Compliance Report – The Department shall complete an annual EEO/AA profile summarizing ~~Within 45 days of the Department's completion of a compliance review, it shall inform the agency's Chief Executive Officer in writing of the findings. The report shall summarize~~ the agency's satisfaction of the various EEO/AA compliance ~~compliance~~ criteria outlined in subsection (a) of this Section above. ~~above.~~ The profile shall be sent to the agency's Chief Executive Officer and the EEO/AA officer with a letter of findings signed by the Director, and shall find ~~rate~~ the agency in:
- 1) ~~Certified~~ Compliance: all EEO/AA criteria set forth in subsection (a) of this Section have been met by the agency ~~affirmative action compliance requirements, numerical and programmatic goals have been met by the agency; or~~
 - 2) ~~Partial~~ Compliance: ~~not all affirmative action compliance requirements, numerical and programmatic goals have been met, but the agency has demonstrated and documented concerted efforts to meet its responsibilities; or~~ 3) Non-compliance: EEO/AA criteria as set forth in subsection (a) of this Section have not been met. ~~affirmative action compliance requirements, numerical and programmatic goals have not been met and the agency has not demonstrated and documented concerted efforts to meet its responsibilities.~~

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c) Compliance Process

- 1) If the Department finds the agency is in compliance, the Director shall send a letter of findings of compliance to the agency and attach the EEO/AA profile. The agency will not be required to take any further action.
- 2) If the Department finds that an agency is in non-compliance in regards to subsection (a)(2) of this Section for the first year, in accordance with Section 7-105(H) of the Act, the Department will send a letter of findings of non-compliance to the agency and attach the EEO/AA profile. The Director will notify the agency and the Department of Central Management Services (CMS) that the agency must establish necessary training programs for preparation and promotion of the category of individuals affected by the failure, in cooperation with CMS.
- 3) If the Department finds that an agency is in non-compliance in regards to subsection (a)(2) of this Section for the second consecutive year, in accordance with Section 7-105(H) of the Act, the Department will send a letter of findings of non-compliance to the agency and attach the EEO/AA profile. The Director will notify the agency and CMS that the agency must continue necessary training programs for preparation and promotion of the category of individuals affected by the failure, in cooperation with CMS.
- 4) If the Department finds that an agency is in non-compliance in regards to subsection (a)(2) of this Section for the third consecutive year, in accordance with Section 7-105(H) of the Act, the Department will inform the agency that it must continue training. Further, the Director may request that the Chief Executive Officer of the agency in question meet with him/her to discuss the agency's EEO/AA performance. In addition, the Department shall direct that the agency furnish to the Department a monthly report due on the fifth working day of each month that must be signed by the Chief Executive Officer and EEO Officer.
 - A) The monthly report shall list each employment transaction for the month by job title, EEO job category, pay grade or merit compensation level, geographic region and affirmative action

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group of the employee affected. The report shall also indicate the number of people in each affirmative action group who applied and who were selected for each transaction.

B) After an agency has completed training for failure to meet numerical and program goals, the agency shall describe in its monthly reports the training instituted and indicate the numbers of each affirmative action group participating in the training.

5) If the Department finds an agency in non-compliance with subsection (a)(2) of this Section for the third consecutive year, sanctions for non-compliance provided in Section 2520.797 of this Part will be invoked.

6) If the Department finds an agency in non-compliance with any other EEO/AA criteria other than subsection (a)(2) of this Section:

A) The Director shall send a letter of findings of non-compliance to the agency, attach the EEO/AA profile report, and set forth recommendations for the agency to achieve compliance. The agency shall submit, within 30 days after receipt of the letter of findings of non-compliance, a corrective action plan incorporating the Director's recommendations, as well as other plans the agency develops to achieve compliance.

B) If the Department determines the corrective action plan is sufficient to bring the agency into compliance, the Department will notify the agency that it has 30 days to implement the plan.

C) The Department will monitor and periodically evaluate the implementation of the agency's corrective action plan.

D) If the Department determines that an agency's corrective action plan is not sufficient to bring the agency into compliance, the Department will notify the agency and request a plan with alternative measures to be submitted within 30 days after the agency's receipt of the Department's notice. If the alternative action plan is sufficient, the Department will proceed pursuant to subsections (b) and (c).

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E) If the agency fails to provide an alternative action plan that is sufficient to bring the agency into compliance, the Department will invoke the sanctions for non-compliance provided in Section 2520.797 of this Part.

e) ~~Agency Action~~

- 1) ~~If the report concludes that an agency is in partial compliance or noncompliance, the report shall set forth recommendations and suggestions for the agency to achieve compliance. Within 30 days of receipt of the report, the agency shall inform the Department in writing whether it accepts the Department's recommendations and suggestions.~~
 - A) ~~An agency's failure to respond within 30 days shall be deemed to constitute rejection.~~
 - B) ~~If the agency accepts the Department's recommendations, the Department will monitor and periodically evaluate the agency's accomplishment of them.~~
 - C) ~~If the agency rejects the Department's recommendations but offers alternatives, within 30 days after their receipt, the Department will review the alternatives and notify the agency if it finds them acceptable. If the Department finds them acceptable, it will monitor and periodically evaluate the agency's accomplishment of them.~~
 - D) ~~If the agency rejects the Department's recommendations and fails to offer acceptable alternatives, the Department will invoke the sanctions for noncompliance provided in Section 2520.797 of this Part.~~
- 2) ~~Within 30 days after the Department's determination that an agency is in noncompliance, in accordance with Section 7-105 of the Act, the Department will notify the agency and Central Management Services that the agency must "establish necessary training programs for preparation and promotion of the category of individuals affected by the failure", in cooperation with Central Management Services.~~

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- 3) ~~If the Department finds that an agency is in noncompliance, or if the discrimination charges filed against the agency suggest that the agency may not be complying with its obligations hereunder, the Department may direct that the agency furnish to the Department a monthly report.~~
- A) ~~The monthly report shall list each employment transaction for the month by job title, EEO job category, pay grade or merit compensation level, geographic region and affirmative action group of the employee affected.~~
- B) ~~After an agency has completed training for failure to meet numerical and program goals, the agency shall describe in its monthly reports the training instituted and how such training was applied, including the number of people in each affirmative action group who applied and who were selected for each employment transaction.~~
- C) ~~If this report is not prepared by the agency's EEO Officer, he or she shall receive a copy of it from the agency.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Housing Discrimination
- 2) Code Citation: 71 Ill. Adm. Code 2300
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2300.10	Amendment
2300.35	Amendment
- 4) Statutory Authority: Implementing Articles 3, 6 and 7B, and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/Arts. 3, 6 and 7B and 7-101(A)].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Section 3-106(I)(1)(c)(iii) of the Illinois Human Rights Act [775 ILCS 5/3-106(I)(1)(c)(iii)], the Department is required to promulgate regulations regarding housing for older persons, including verification of occupancy and examples of policies and procedures. The proposed amendments are modeled after the equivalent federal regulations, 24 CFR §100.306 and 100.307.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed amendments do not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments in writing within 45 days after publication to:

David T. Rothal
Staff Attorney
Illinois Department of Human Rights – Legal Division

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100 W. Randolph St., Ste. 10-100
Chicago IL 60601

312/814-6257 or 312/263-1579 (TTY)

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: The amendments affect any entities subject to Article 3 of the Illinois Human Rights Act that seek to invoke the exception under Section 3-106(I)(1)(c) of the Illinois Human Rights Act [775 ILCS 5/3-106(I)(1)(c)] for housing intended and operated for persons who are 55 years of age or older.
- B) Reporting, bookkeeping or other procedures required for compliance: The amendments clarify the documentation and procedures required to demonstrate an intent to operate as housing for persons who are 55 years of age or older.
- C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER VII: DEPARTMENT OF HUMAN RIGHTSPART 2300
HOUSING DISCRIMINATION

Section	
2300.10	Definitions
2300.30	Exemptions
2300.35	Housing for Older <u>Elderly</u> Persons
2300.40	Verified Response to Charge
2300.50	Dismissal for Refusal to Accept Settlement Offer
2300.70	Procedures
2300.80	Rental of Rooms in a Private Home
2300.90	Real Estate Transactions

AUTHORITY: Implementing Articles 3, 6 and 7B, and authorized by Section 7-101(A), of the Illinois Human Rights Act [775 ILCS 5/Arts. 3, 6 and 7B and 7-101(A)].

SOURCE: Adopted at 16 Ill. Reg. 8178, effective May 19, 1992; amended at 25 Ill. Reg. 2420, effective January 23, 2001; amended at 25 Ill. Reg. 9619, effective July 17, 2001; amended at 29 Ill. Reg. 13808, effective August 25, 2005; amended at 30 Ill. Reg. 1361, effective January 13, 2006; amended at 32 Ill. Reg. _____, effective _____.

Section 2300.10 Definitions

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

Act - shall mean the Illinois Human Rights Act [775 ILCS 5].

Aid, abet, compel or coerce – includes threatening, intimidating or interfering with a real estate transaction or a person for pursuing any right protected under Article 3 of the Act. Such conduct must be: because of unlawful discrimination; because that person has aided or encouraged another person in the exercise or enjoyment of a right protected under Article 3; or because of the race, color, religion, national origin, ancestry, citizenship status, age, sex, marital status, ~~disability~~handicap, familial status, sexual orientation, military status or unfavorable discharge from the military of visitors or associates of any person.

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Department – shall mean the Illinois Department of Human Rights.

Director – shall mean the Director of the Department or a duly authorized designee.

Housing facility or community – shall mean any dwelling or group of dwelling units governed by a common set of rules, regulations or restrictions. A portion or portions of a single building shall not constitute a housing facility or community. Examples of a housing facility or community include, but are not limited to:

A condominium association;

A cooperative;

A property governed by a homeowners' or residents' association;

A municipally zoned area;

A leased property under common private ownership;

A mobile home park; and

A manufactured housing community.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2300.35 Housing for ~~Older~~Elderly Persons

- a) Housing for older persons pursuant to Section 3-106(I)(1)(a) of the Act. To ascertain whether housing for ~~older persons~~the elderly provided under a federal program is "specifically designed and operated to assist elderly persons", ~~pursuant to Section 3-106(I)(1)(a) of the Act,~~ the Department will obtain a determination from the U.S. Department of Housing and Urban Development as to whether the housing is in accordance with federal law, regulations, and standards.
- b) Verification of occupancy pursuant to Section 3-106(I)(1)(c)(iii)(aa) of the Act.
 - 1) In order for a housing facility or community to qualify as housing for persons 55 years of age or older, it must be able to produce, in response to

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a charge filed under Article 3 of the Act, verification of compliance through reliable surveys and/or affidavits.

- 2) A facility or community shall, within 180 days after the effective date of this amendatory rulemaking, develop procedures for routinely determining the occupancy of each unit, including the identification of whether at least one occupant of each unit is 55 years of age or older. These procedures may be part of a normal leasing or purchasing arrangement.
- 3) The procedures described in subsection (b)(2) of this Section must provide for regular updates, through surveys or other means, of the initial information supplied by the occupants of the housing facility or community. The updates must take place at least once every two years.
- 4) Any of the following documents are considered reliable documentation of the age of the occupants of the housing facility or community:
 - A) Driver's license;
 - B) Birth certificate;
 - C) Passport;
 - D) Immigration card;
 - E) Military identification;
 - F) Any other state, local, national or international official documents containing a birth date of comparable reliability; or
 - G) A certification in a lease, application, affidavit or other document signed by any member of the household age 18 or older asserting that at least one person in the unit is 55 years of age or older.
- 5) A facility or community shall consider any one of the forms of verification identified in subsection (b)(4) as adequate for verification of age, provided that it contains specific information about current age or date of birth.

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- 6) The housing facility or community must establish and maintain appropriate policies to require that occupants comply with the age verification procedures required by this Section.
- 7) If the occupants of a particular dwelling unit refuse to comply with the age verification procedures, the housing facility or community may, if it has sufficient evidence, consider the unit to be occupied by at least one person 55 years of age or older. Acceptable evidence may include:
 - A) Government records or documents, such as a local household census;
 - B) Prior forms or applications; or
 - C) A statement from an individual who has personal knowledge of the age of the occupants. The individual's statement must set forth the basis for that knowledge and be signed under the penalty of perjury.
- 8) A summary of occupancy surveys shall be available for inspection upon reasonable notice and request by any person.
- c) Examples of the types of policies and procedures relevant to a determination of compliance pursuant to Section 3-106(I)(1)(c)(iii)(bb) of the Act.
 - 1) In order for a housing facility or community to qualify as housing designed for persons who are 55 years of age or older, it must publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons 55 years of age or older. The following factors, among others, are considered relevant in determining whether the housing facility or community has complied with this requirement:
 - A) The manner in which the housing facility or community is described to prospective residents;
 - B) Any advertising designed to attract prospective residents;
 - C) Lease provisions;

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- D) Written rules, regulations, covenants, deed or other restrictions;
 - E) The maintenance and consistent application of relevant procedures;
 - F) Actual practices of the housing facility or community; and
 - G) Public posting in common areas of statements describing the facility or community as housing for persons 55 years of age or older.
- 2) Phrases such as "adult living", "adult community" or similar statements in any written advertisement or prospectus are not consistent with the intent that the housing facility or community intends to operate as housing for persons 55 years of age or older.
- 3) If there is language in a deed or other housing facility or community documents that is inconsistent with the intent to provide housing for persons who are 55 years of age or older, the Department shall consider documented evidence of a good faith attempt to remove that language in determining whether the housing facility or community complies with the requirements of this Section, in conjunction with other evidence of intent.
- 4) A housing facility or community may allow occupancy by families with children as long as the requirements of Section 3-106(I)(1)(c)(i) of the Act and subsection (c)(1) of this Section are met.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.2655 Proposed Action: New Section
- 4) Statutory Authority: 35 ILCS 5/203(b)(2)(M) and 5/1401
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking provides guidance for corporations that are "financial organizations" to compute the subtraction allowed to them for interest income received from loans they make that are secured by eligible property located in an enterprise zone or river edge redevelopment zone.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>IL Register Citation:</u>
100.2406	New Section	31 Ill. Reg. 15240; November 16, 2007
100.3380	Amendment	32 Ill. Reg 798; January 18, 2008
100.9700	Amendment	32 Ill. Reg 798; January 18, 2008
100.5040	Amendment	32 Ill. Reg. 4574; April 4, 2008
100.3500	Amendment	32 Ill. Reg. 5936; April 11, 2008
100.9730	New Section	32 Ill. Reg. 5936; April 11, 2008
100.2455	New Section	32 Ill. Reg. 6438; April 18, 2008
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

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- 12) Time, Place and Manner in which interested persons may comment on this rulemaking:
Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Paul Caselton
Deputy General Counsel - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/524-3951

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Providing guidance on the computation of this subtraction could help small businesses, municipalities and not-for-profit corporations with property located in an enterprise zone or river edge redevelopment zone to obtain loans at lower interest rates by making financial organizations aware of the tax benefits of making loans secured by that property.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section	
100.2000	Introduction
100.2050	Net Income (IITA Section 202)

SUBPART B: CREDITS

Section	
100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2185	Film Production Services Credit (IITA 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196	Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197	Foreign Tax Credit (IITA Section 601(b)(3))
100.2198	Economic Development for a Growing Economy Credit (IITA 211)
100.2199	Illinois Earned Income Tax Credit (IITA 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

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Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or

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After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section

- 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 Companies
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section

- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

- 100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND

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APPORTIONMENT OF BASE INCOME

Section

100.3000	Terms Used in Article 3 (IITA Section 301)
100.3010	Business and Nonbusiness Income (IITA Section 301)
100.3015	Business Income Election (IITA Section 1501)
100.3020	Resident (IITA Section 301)

SUBPART J: COMPENSATION

Section

100.3100	Compensation (IITA Section 302)
100.3110	State (IITA Section 302)
100.3120	Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3200	Taxability in Other State (IITA Section 303)
100.3210	Commercial Domicile (IITA Section 303)
100.3220	Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3300	Allocation and Apportionment of Base Income (IITA Section 304)
100.3310	Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320	Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330	Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
100.3340	Business Income of Persons Other Than Residents (IITA Section 304)
100.3350	Property Factor (IITA Section 304)
100.3360	Payroll Factor (IITA Section 304)
100.3370	Sales Factor (IITA Section 304)
100.3380	Special Rules (IITA Section 304)
100.3390	Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))

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- 100.3400 Apportionment of Business Income of Financial Organizations (IITA Section 304(c))
- 100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
- 100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section

- 100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section

- 100.5000 Time for Filing Returns: Individuals (IITA Section 505)
- 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
- 100.5040 Innocent Spouses
- 100.5050 Frivolous Returns
- 100.5060 Reportable Transactions
- 100.5070 List of Investors in Potentially Abusive Tax Shelters
- 100.5080 Registration of Tax Shelters (IITA Section 1405.5)

SUBPART O: COMPOSITE RETURNS

Section

- 100.5100 Composite Returns: Eligibility
- 100.5110 Composite Returns: Responsibilities of Authorized Agent
- 100.5120 Composite Returns: Individual Liability
- 100.5130 Composite Returns: Required forms and computation of Income
- 100.5140 Composite Returns: Estimated Payments
- 100.5150 Composite Returns: Tax, Penalties and Interest
- 100.5160 Composite Returns: Credits for Resident Individuals
- 100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

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Section

100.5200	Filing of Combined Returns
100.5201	Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205	Election to File a Combined Return
100.5210	Procedures for Elective and Mandatory Filing of Combined Returns
100.5215	Filing of Separate Unitary Returns
100.5220	Designated Agent for the Members
100.5230	Combined Estimated Tax Payments
100.5240	Claims for Credit of Overpayments
100.5250	Liability for Combined Tax, Penalty and Interest
100.5260	Combined Amended Returns
100.5265	Common Taxable Year
100.5270	Computation of Combined Net Income and Tax
100.5280	Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section

100.7000	Requirement of Withholding (IITA Section 701)
100.7010	Compensation Paid in this State (IITA Section 701)
100.7020	Transacting Business Within this State (IITA Section 701)
100.7030	Payments to Residents (IITA Section 701)
100.7040	Employer Registration (IITA Section 701)
100.7050	Computation of Amount Withheld (IITA Section 702)
100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section

100.7100	Withholding Exemption (IITA Section 702)
100.7110	Withholding Exemption Certificate (IITA Section 702)
100.7120	Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

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Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns of Income Tax Withheld from Wages (IITA Section 704)
100.7310 Quarterly Returns Filed on Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns (IITA Section 704)
100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)
100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section
100.9000 General Income Tax Procedures (IITA Section 901)
100.9010 Collection Authority (IITA Section 901)
100.9020 Child Support Collection (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section
100.9300 Deficiencies and Overpayments (IITA Section 904)
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

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SUBPART Y: CREDITS AND REFUNDS

Section

- 100.9400 Credits and Refunds (IITA Section 909)
- 100.9410 Limitations on Claims for Refund (IITA Section 911)
- 100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section

- 100.9500 Access to Books and Records (IITA Section 913)
- 100.9505 Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
- 100.9510 Taxpayer Representation and Practice Requirements
- 100.9520 Conduct of Investigations and Hearings (IITA Section 914)
- 100.9530 Books and Records

SUBPART AA: JUDICIAL REVIEW

Section

- 100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section

- 100.9700 Unitary Business Group Defined (IITA Section 1501)
- 100.9710 Financial Organizations (IITA Section 1501)
- 100.9720 Nexus
- 100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section

- 100.9800 Letter Ruling Procedures

SUBPART DD: MISCELLANEOUS

Section

- 100.9900 Tax Shelter Voluntary Compliance Program

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100.APPENDIX A	Business Income Of Persons Other Than Residents
100.TABLE A	Example of Unitary Business Apportionment
100.TABLE B	Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29,

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1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 16, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. _____, effective _____.

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

**Section 100.2655 Subtraction Modification for Enterprise Zone and River Edge
Redevelopment Zone Interest (ITA Section 203(b)(2)(M))**

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- a) A corporation that is a "financial organization" within the meaning of IITA Section 304(c) may subtract an amount included in its taxable income as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the enterprise zone investment credit (IITA Section 203(b)(2)(M)) or the river edge redevelopment zone investment credit under IITA Section 201(f), as amended by P.A. 94-1021, effective July 12, 2006.
- b) Eligible Property. For purposes of this Section, "Eligible Property" shall mean:
- 1) for tax years ending prior to June 8, 1984 (the effective date of P.A. 83-1114), property for which the borrower had successfully claimed the credit under IITA Section 201(h) (prior to recodification as IITA Section 201(f) by P.A. 85-731); and
 - 2) for tax years ending on or after June 8, 1984, property that is "qualified property" as defined under IITA Section 203(f)(2) and Section 100.2110(e) or that would have been qualified property under those provisions if placed in service in an enterprise zone at the time it was new by a taxpayer otherwise eligible to claim the credit under IITA Section 203(f).
- c) Portion of Loan Secured by Eligible Property. To determine the portion of a loan that that is secured by Eligible Property, the entire principal amount of the loan between the taxpayer and the borrower should be divided into the basis of the Eligible Property which secures the loan, using for this purpose the original basis of such property on the date it was placed in service in the enterprise zone or the river edge redevelopment zone. The subtraction modification available to the taxpayer in any year under this Section shall be the portion of the total interest paid by the borrower with respect to such loan attributable to the Eligible Property as calculated under the previous sentence. (IITA Section 203(b)(2)(M)) There is no limitation to the length of time for which the subtraction may be taken with respect to a particular loan.
- d) Basis. For purposes of the computation in subsection (c), the basis of Eligible Property shall be its borrower's basis in the Eligible Property for federal income tax purposes, including the costs of any improvements or repairs included in that basis, but without adjustment for depreciation or IRC section 179 deductions claimed with respect to the property.

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- e) Examples. This subsection provides examples of various fact situations and the Department's interpretation of how this subtraction would apply:
- 1) Example 1. Bank lends \$1,000 to Borrower, secured by Eligible Property with a basis of \$900. The portion of the loan secured by Eligible Property is the \$900 basis of the borrower in Eligible Property divided by the \$1,000 principal amount of the loan, or 90%.
 - 2) Example 2. Bank lends \$1,000 to Borrower, secured by Eligible Property with a basis of \$1,000 and by other property with a basis of \$2000. The portion of the loan secured by Eligible Property is the \$1,000 basis of the borrower in Eligible Property divided by the \$1000 principal amount of the loan, or 100%. The existence of other property securing the loan is irrelevant.
 - 3) Example 3. In 1996, ABC Company built a new warehouse in an enterprise zone at the cost of \$1,000,000 and is able to claim the enterprise zone investment credit under IITA Section 201(f). ABC takes out a \$2,000,000 loan at Bank A, which then places a lien on the property. In 1999, when the warehouse had an adjusted basis (after depreciation) of \$900,000 and a fair market value of \$1,300,000, ABC refinanced the loan for the same principal amount, but at a lower interest rate. For both loans, the portion of the loan secured by Eligible Property is the \$1,000,000 original basis in the warehouse divided by the \$2,000,000 principal. Neither the adjusted basis after depreciation nor the fair market value are relevant to the computation for the refinanced amount.
 - 4) Example 4. The facts are the same as in Example 3, except that, in 2001, ABC Company again refinanced the loan, this time at Bank B (unrelated to Bank A). There was no change in the principal amount. Bank B takes a lien on the warehouse to secure the new loan. The portion of the Bank B loan that qualifies for the subtraction modification is 50% because the principal amount of the loan and ABC Company's original basis in the property remain unchanged.
 - 5) Example 5. Same facts as in Example 4, except that Bank B purchased the refinanced loan from Bank A. The loan is not refinanced. ABC continues to pay the same amount, but now pays Bank B rather than Bank A. Bank

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B does not qualify for the subtraction modification, which is allowed only with respect to a loan "made by such taxpayer to a borrower" and Bank B did not make the loan.

- 6) Example 6. X Corp., headquartered outside the river edge redevelopment zone, builds a \$100,000,000 warehouse in a river edge redevelopment zone in 2007 and claims the river edge redevelopment zone credit. X takes out a 20-year loan at Bank A in the principal amount of \$1,000,000. In 2017, X takes out a new \$1,750,000 loan at the same bank and uses \$1,000,000 of the proceeds to pay off the old loan and spends the remaining \$750,000 to renovate its corporate headquarters located outside the zone. Bank A takes a lien on the warehouse as security for each loan. Because X Corp.'s \$100,000,000 basis in the warehouse exceeds the principal amount of each loan, Bank A is entitled to subtract the entire amount of interest received from each loan. The portion of the loan whose interest may be subtracted need not be reduced by the \$750,000 portion not spent inside the river edge redevelopment zone because use of the borrowed funds is not relevant to the subtraction.
- 7) Example 7. The F Church, located in an enterprise zone, decides to borrow \$500,000 in 2003 from Bank A for roof repairs and a new addition. The church cannot claim the enterprise zone credit because it did not have unrelated business taxable income and was not required to file an IL-990-T for 2003. Bank A may claim the subtraction modification. The loan is secured by property that is either qualified property or could be qualified property, and the property has been placed in service within an enterprise zone.

(Source: Added at 32 Ill. Reg. _____, effective _____)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of April 8, 2008 through April 14, 2008 and have been scheduled for review by the Committee at its May 20, 2008 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
5/23/08	<u>Department of Natural Resources</u> , Regulations for the Letting of Concessions, Farm Leases, Sale of Buildings and Facilities, and Demolitions (17 Ill. Adm. Code 150)	2/15/08 32 Ill. Reg. 2447	5/20/08
5/23/08	<u>Department of Transportation</u> , Procedures for Transportation Workplace Drug and Alcohol Testing Programs (92 Ill. Adm. Code 340)	2/15/08 32 Ill. Reg. 2452	5/20/08
5/23/08	<u>Department of Transportation</u> , Special Training Requirements (92 Ill. Adm. Code 380)	2/15/08 32 Ill. Reg. 2456	5/20/08
5/23/08	<u>Department of Transportation</u> , Controlled Substances and Alcohol Use and Testing (92 Ill. Adm. Code 382)	2/15/08 32 Ill. Reg. 2465	5/20/08
5/23/08	<u>Department of Transportation</u> , Commercial Driver's License Standards; Requirements and Penalties (92 Ill. Adm. Code 383)	2/15/08 32 Ill. Reg. 2469	5/20/08
5/23/08	<u>Department of Transportation</u> , Safety Fitness Procedures (92 Ill. Adm. Code 385)	2/15/08 32 Ill. Reg. 2474	5/20/08
5/23/08	<u>Department of Transportation</u> , Procedures and Enforcement (92 Ill. Adm. Code 386)	2/15/08 32 Ill. Reg.	5/20/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

		2483	
5/23/08	<u>Department of Transportation</u> , Minimum Levels of Financial Responsibility for Motor Carriers (92 Ill. Adm. Code 387)	2/15/08 32 Ill. Reg. 2494	5/20/08
5/23/08	<u>Department of Transportation</u> , Motor Carrier Safety Regulations: General (92 Ill. Adm. Code 390)	2/15/08 32 Ill. Reg. 2500	5/20/08
5/23/08	<u>Department of Transportation</u> , Qualification of Drivers (92 Ill. Adm. Code 391)	2/15/08 32 Ill. Reg. 2524	5/20/08
5/23/08	<u>Department of Transportation</u> , Driving of Commercial Motor Vehicles (92 Ill. Adm. Code 392)	2/15/08 32 Ill. Reg. 2530	5/20/08
5/23/08	<u>Department of Transportation</u> , Hours-of-Service of Drivers (92 Ill. Adm. Code 395)	2/15/08 32 Ill. Reg. 2540	5/20/08
5/23/08	<u>Department of Transportation</u> , Inspection, Repair and Maintenance (92 Ill. Adm. Code 396)	2/15/08 32 Ill. Reg. 2548	5/20/08
5/23/08	<u>Department of Transportation</u> , Transportation of Hazardous Materials; Driving and Parking (92 Ill. Adm. Code 397)	2/15/08 32 Ill. Reg. 2553	5/20/08
5/25/08	<u>Department of Natural Resources</u> , Camping on Department of Natural Resources Properties (17 Ill. Adm. Code 130)	2/22/08 32 Ill. Reg. 2653	5/20/08

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill Adm. Code 140
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
140.6	Refusal
- 4) Date Notice of Proposed Amendment Published in the Illinois Register: October 5, 2007;
31 Ill. Reg. 13570
- 5) Date JCAR Statement of Objection and Filing Prohibition Published in the Illinois Register: January 25, 2008; 32 Ill. Reg. 1168
- 6) Summary of Action Taken by the Agency: The proposed amendment was designed to open up four Current Procedural Terminology (CPT) codes in the Department's billing system that have not been paid for historically in HFS programs. The purpose was to reinforce the emphasis on preventive medicine inherent in the newly implemented Primary Care Case Management program. Listed are the office visit codes for adult preventive services:

New patient age 21 to 39

New patient age 40 to 64

Existing patient age 21 to 39

Existing patient age 40 to 64

In submitting the original rulemaking, the Department made two assumptions in concluding that there would be no fiscal impact. First, we assumed that preventive care would yield comparable savings on acute care. Second, we assumed that patients who wanted check-ups were being seen and the visits billed as complaint-driven office visits, since most patients, who conscientiously get check-ups have health problems that justify a complaint-driven office visit. We priced the preventive visits at the same level as other office visits so as not to create an incentive to choose one over the other. The goal was to get good data on preventive care by having preventive visits billed as such. We believe both of those assumptions were and still are valid.

Nevertheless, the Department has now calculated a fiscal impact that ignores those two assumptions. We have simply priced preventive office visits and estimated the volume based on the number of non-Medicare eligible adults covered and statistics on preventive

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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visits. Costs for this proposed amendment are projected at \$850,000 in the first full year, which may double in subsequent years as utilization increases. It is anticipated that in the long run, savings resulting from decreased utilization of acute care services will offset any expenditures for these preventive services. We believe that these costs can be absorbed in the nearly \$1 billion dollar physician line in the budget without altering the budgeted payment cycle. The "shortfall" referred to in the objection to the rulemaking represents bills on hand at the end of the fiscal year. This represents not a shortfall, but the normal carryover of end-of-fiscal-year liability to the next fiscal year as permitted by Section 25 of the State Finance Act.

DEPARTMENT OF PUBLIC HEALTH

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

- 1) Heading of the Part: Smoke Free Illinois Code
- 2) Code Citation: 77 Ill. Adm. Code 975
- 3) Section Numbers:
 - 975.10
 - 975.20
 - 975.30
 - 975.40
 - 975.50
 - 975.60
 - 975.70
 - 975.80
 - 975.90
 - 975.100
 - 975.110
 - 975.120
 - 975.130
- 4) Date Notice of Proposed Rules Published in the Register: October 5, 2007; 31 Ill. Reg. 13672
- 5) Date JCAR Statement of Objection Published in the Register: January 25, 2008; 32 Ill. Reg. 1169
- 6) Summary of Action Taken by the Agency: The Joint Committee on Administrative Rules objected to and prohibited filing of the rulemaking because it contains no process by which an accused violator can argue that no violation occurred, appeal a finding of a violation, or appeal the amount of the imposed fine. An alleged violator's only options are to pay the fine or challenge enforcement action through the circuit court. Lack of due process threatens the public interest and welfare.

The Department will amend the proposed Smoke Free Illinois Code and submit the modifications to JCAR for review.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

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

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

Agricultural Producers and Products	Newsprint & Ink
Computer Software	Nexus
Construction Contractors	Sale for Resale
Exempt Organizations	Service Occupation Tax
Governmental Bodies	Telecommunications Excise Tax
Leasing	Use Tax
Manufacturer's Purchase Credit	Vehicle Use Tax
Medical Appliances	
Miscellaneous	

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

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov/.

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

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

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

217/782-2844

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

AGRICULTURAL PRODUCERS AND PRODUCTS

ST 08-0007-GIL 01/04/2008 The farm chemicals exemption includes chemical products used in production agriculture, the products of which are to be sold, or in the production or care of animals that are to be sold or the products of which are to be sold. See 86 Ill. Adm. Code 130.1955.

COMPUTER SOFTWARE

ST 08-0001-PLR 02/20/2008 Charges for updates of canned software are fully taxable under Section 130.1935(b) of the Department's rules. If a maintenance agreement provides for updates of canned software, and the charges for those updates are not separately stated and taxed, then the whole agreement would be taxable as a sale of canned software. See 86 Ill. Adm. Code 130.1935.

ST 08-0030-GIL 03/12/2008 A license of canned software is subject to Retailers' Occupation Tax liability if all of the criteria for an exempt license of canned software set out in 86 Ill. Adm. Code 130.1935(a)(1) are not met. See 86 Ill. Adm. Code 130.1935.

CONSTRUCTION CONTRACTORS

ST 08-0002-GIL 01/03/2008 Construction contractors who physically incorporate tangible personal property into real estate owned by exempt organizations or governmental entities that hold tax exempt "E" numbers can purchase such property tax free by providing their suppliers with the certification described in 86 Ill. Adm. Code 130.2075(d). See 86 Ill. Adm. Code Section 130.2075.

ST 08-0003-GIL 01/03/2008 Construction contractors who physically incorporate tangible personal property into real estate owned by exempt organizations or governmental entities that hold tax exempt "E" numbers can purchase such property tax free by providing their suppliers with the certification described in 86 Ill. Adm. Code 130.2075(d). See 86 Ill. Adm. Code Section 130.2075.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 08-0004-GIL 01/03/2008 Construction contractors who physically incorporate tangible personal property into real estate owned by exempt organizations or governmental entities that hold tax exempt "E" numbers can purchase such property tax free by providing their suppliers with the certification described in 86 Ill. Adm. Code 130.2075(d). See 86 Ill. Adm. Code Section 130.2075.
- ST 08-0008-GIL 01/04/2008 Construction contractors who physically incorporate tangible personal property into real estate owned by exempt organizations or governmental entities that hold tax exempt "E" numbers can purchase such property tax free by providing their suppliers with the certification described in 86 Ill. Adm. Code 130.2075(d). See 86 Ill. Adm. Code Section 130.2075.
- ST 08-0016-GIL 02/21/2008 Construction contractors who physically incorporate tangible personal property into real estate owned by exempt organizations or governmental entities that hold tax exempt "E" numbers can purchase such property tax free by providing their suppliers with the certification described in 86 Ill. Adm. Code 130.2075(d). See 86 Ill. Adm. Code Section 130.2075.
- ST 08-0024-GIL 02/28/2008 When a construction contractor permanently affixes tangible personal property to real property, the contractor is deemed the end user of that tangible personal property. As the end user, the contractor incurs Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 130.1940 and 130.2075.
- ST 08-0028-GIL 03/12/2008 Persons who act as construction contractors by permanently affixing tangible personal property to real estate owe Illinois Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 1940 and 2075.

EXEMPT ORGANIZATIONS

- ST 08-0027-GIL 03/10/2008 Exclusively religious, educational, or charitable organizations are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2005.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

GOVERNMENTAL BODIES

ST 08-0011-GIL 01/30/2008 Currently the Department's regulation at 86 Ill. Adm. Code 130.2080(a), provides that retailers may accept U.S. Government Bank Cards in sales to the U.S. Government and its agencies without requiring an Illinois exemption number.

LEASING

ST 08-0015-GIL 02/07/2008 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220.

ST 08-0021-GIL 02/28/2008 This letter discusses the application of the sales tax laws to true lease and conditional sale situations. See 86 Ill. Adm. Code 130.220.

MANUFACTURER'S PURCHASE CREDIT

ST 08-0009-GIL 01/04/2008 This letter concerns the use of Manufacturer's Purchase Credit in transactions involving fuel used in ready-mix cement trucks. See 86 Ill. Adm. Code 130.331.

MEDICAL APPLIANCES

ST 08-0014-GIL 02/07/2008 Assistive devices such as phone and television amplifiers do not directly substitute for a malfunctioning part of the body and therefore do not qualify for the reduced State rate of tax as medical appliances. See part 86 Ill. Adm. Code 130.310(c).

ST 08-0020-GIL 02/28/2008 This letter concerns the low 1% State rate of tax applicable to food, drugs and medical appliances. See 86 Ill. Adm. Code 130.310.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 08-0036-GIL 03/21/2008 Assistive devices, such as telephone and television amplifiers, smoke alarms, or alarm clock signalers etc., do not directly substitute for a malfunctioning part of the body and therefore do not qualify for the low rate of tax as medical appliances. See 86 Ill. Adm. Code 130.310.

MISCELLANEOUS

ST 08-0022-GIL 02/28/2008 The Department does not issue binding rulings in the form of General Information Letters. Only Private Letter Rulings that meet the requirements of 2 Ill. Adm. Code 1200.110 are binding upon the Department and are only binding to the taxpayer who is the subject of the request for ruling. See 2 Ill. Adm. Code 1200.110.

ST 08-0025-GIL 02/29/2008 This letter provides general references to the Department's administrative rules regarding sales taxes. See 86 Ill. Adm. Code 130.101.

ST 08-0029-GIL 03/12/2008 Whether to issue a private letter ruling in response to a letter ruling request is within the discretion of the Department. See 2 Ill. Adm. Code 1200.110(a)(4).

ST 08-0032-GIL 03/19/2008 The Department will not approve the accuracy of private legal publications.

ST 08-0038-GIL 03/31/2008 This letter responds to an annual survey regarding coal mining equipment. See 86 Ill. Adm. Code 130.350.

NEWSPRINT & INK

ST 08-0018-GIL 02/21/2008 Gross receipts from the sale of newspapers and magazines in Illinois are not subject to sales tax. See 86 Ill. Adm. Code Section 130.2015.

NEXUS

DEPARTMENT OF REVENUE

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- ST 08-0005-GIL 01/03/2008 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).
- ST 08-0037-GIL 03/31/2008 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).
- ST 08-0039-GIL 03/31/2008 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).

SALE FOR RESALE

- ST 08-0017-GIL 02/21/2008 This letter discusses the requirements for Certificates of Resale. 86 Ill. Adm. Code 130.1405.

SERVICE OCCUPATION TAX

- ST 08-0002-PLR 02/20/2008 This letter describes the tax liabilities involved in the sale of data analysis services. See 86 Ill. Adm. Code 140.101.
- ST 08-0010-GIL 01/17/2008 This letter discusses donor/donee situations and Service Occupation Tax. See 86 Ill. Adm. Code 150.305.
- ST 08-0019-GIL 02/27/2008 Under the Service Occupation Tax Act, businesses providing services (i.e. servicemen) are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code Part 140.
- ST 08-0023-GIL 02/28/2008 Under the Service Occupation Tax, servicemen are taxed on tangible personal property transferred incident to a sale of service. See 86 Ill. Adm. Code Part 140.
- ST 08-0040-GIL 03/31/2008 This letter concerns tax imposed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

TELECOMMUNICATIONS EXCISE TAX

ST 08-0001-GIL 01/03/2008 Taxes imposed on consumers for community 911 service, lifeline service or other services required by regulatory authorities or government are not includable in gross charges. See 86 Ill. Adm. Code 495.100(1).

ST 08-0033-GIL 03/19/2008 This letter discusses the sales and excise tax treatment of internet services. See 86 Ill. Adm. Code Part 495.

USE TAX

ST 08-0006-GIL 01/03/2008 This letter discusses the Interstate Commerce exemption. See 86 Ill. Adm. Code 130.605.

ST 08-0010-GIL 01/17/2008 This letter discusses donor/donee situations and Service Occupation Tax. See 86 Ill. Adm. Code 150.305.

ST 08-0013-GIL 02/05/2008 This letter discusses meals provided by restaurants to their employees. See 86 Ill. Adm. Code 130.2050.

ST 08-0026-GIL 03/05/2008 Retailers are prohibited from advertising or holding out that they will absorb the purchaser's Use Tax obligation. See 35 ILCS 105/7.

ST 08-0031-GIL 03/12/2008 In order to prevent actual or likely multi-state taxation, the Use Tax does not apply to the use of tangible personal property in this State that is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase, or use of that property, to the extent of the amount of the tax properly due and paid in the other state. See 86 Ill. Adm. Code 150.310.

ST 08-0034-GIL 03/20/2008 Foreign and domestic travelers are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605.

ST 08-0035-GIL 03/20/2008 This letter discusses sales of motor vehicles involving drive-away decals. See 86 Ill. Adm. Code 130.605.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

VEHICLE USE TAX

ST 08-0012-GIL 02/01/2008 This letter responds to a survey concerning taxation of vehicles.

PROCLAMATIONS

2008-117 (Revised)
Cheap Trick Day

WHEREAS, one of the most prolific musical groups to come from the State of Illinois has been the rock group Cheap Trick; and

WHEREAS, Cheap Trick's roots lie in Fuse, a late-1960s Rockford band formed by Rick Nielsen and bassist Tom Petersson. With the addition of Robin Zander and Bun E. Carlos the original lineup of the band now known as Cheap Trick was complete; and

WHEREAS, Cheap Trick signed with Epic Records in 1976, releasing their self-titled debut in early 1977. The record sold well in America, however, the group became a massive success in Japan, going gold upon release; and

WHEREAS, to date, Cheap Trick has performed over 5,000 live performances, including USO tours in 12 countries with the 1st Airborne Rock and Roll Division; made 28 albums and sold over 20 million records; recorded songs for hit TV shows and movies such as That 70's Show, The Colbert Report, Top Gun and Daddy Day Care; appeared on the cover of Rolling Stone magazine, which named Cheap Trick among their Top 10 Greatest Live Acts and Songs lists; performed on Saturday Night Live; and been commemorated with a special Rockford Illinois Vehicle Sticker; and

WHEREAS, despite their monumental success in the music industry, Cheap Trick's band members still consider the City of Rockford and the State of Illinois to be their home; and

WHEREAS, in their honor, the Illinois State Senate passed a resolution on October 11, 2007, SR0255, sponsored by Senators Dave Syverson, J. Bradley Burzynski and Rickey R. Hendon, designating April 1 of every year as Cheap Trick Day. To ring in the first anniversary, there will be a concert at Northern Illinois University on March 29 followed by a big celebration on April 1:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 1, 2008 as **CHEAP TRICK DAY** in Illinois in commemoration of Cheap Trick's amazing career, and I offer them my best wishes for continued success.

Issued by the Governor March 28, 2008

Filed by the Secretary of State April 11, 2008

PROCLAMATIONS

2008-142**Automotive Service Professionals Week**

- WHEREAS, the automotive service professional, an invaluable member of the automotive service industry in Illinois, is a highly trained and skilled individual; and
- WHEREAS, there are over 15,000 ASE Certified Automotive Service Professionals working in nearly 5,000 automotive service and repair facilities in Illinois; and
- WHEREAS, the goal of the automotive service and repair industry in Illinois is to provide motorists with the best possible vehicle repair and service; and
- WHEREAS, this goal can only be accomplished by developing and using the highly technical and diagnostic skills of automotive service professionals, who are responsible for maintaining, servicing, and repairing the vehicles that the motoring public depends on to travel safely and securely over our nation's roads; and
- WHEREAS, automotive service professionals provide prompt, complete, accurate, and quality service to the increasingly complex vehicles consumers depend upon daily, while diligently adhering to standards of professionalism and continuing technical education and training; and
- WHEREAS, automotive service professionals' ongoing efforts to fix it right the first time are worthy of recognition and appreciation for their dedication to the car owners and vehicles in Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 9 – 15, 2008 as **AUTOMOTIVE SERVICE PROFESSIONALS WEEK** in Illinois, and encourage all citizens to recognize the valuable and meaningful contributions that automotive service professionals make to keep our cars and trucks running.

Issued by the Governor April 7, 2008

Filed by the Secretary of State April 11, 2008

2008-143**Illinois Medical Coders Day**

- WHEREAS, credentialed medical coders enhance the workplace and productivity of many medical specialties and insurance carriers' offices throughout the state; and

PROCLAMATIONS

WHEREAS, professional coders work diligently with issues of compliance, reimbursement and maximizing income for medical professionals, thus enabling them to continue practicing in Illinois; and

WHEREAS, over the years, medical coders have achieved significant milestones in the sophistication of their profession through extensive education and training; and

WHEREAS, the need for qualified medical coders continues to increase nationally in physician offices, and outpatient and hospital settings; and

WHEREAS, the integrity and high standards of medical coders have contributed to the U.S. Department of Health and Human Services' campaign against fraud and abuse in medical reimbursement; and

WHEREAS, credentialed medical coders are represented by the American Academy of Professional Coders (AAPC). On May 21, the Carbondale Chapter of the AAPC will host a celebration to honor members for their contributions to the healthcare system and to encourage current students desiring to enter the field; and

WHEREAS, my administration is proud to recognize medical coders for all their hard work in this state, and throughout the country:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 21, 2008 as **ILLINOIS MEDICAL CODERS DAY**, and encourage all citizens to recognize and honor medical coders for their hard work in our communities.

Issued by the Governor April 8, 2008

Filed by the Secretary of State April 11, 2008

2008-144**National Caribbean-American Heritage Month**

WHEREAS, emigration from the Caribbean region to the American Colonies began as early as 1619 with the arrival of indentured workers in Jamestown, Virginia; and

WHEREAS, much like the United States, the countries of the Caribbean faced obstacles of slavery and colonialism and struggled for independence; and

WHEREAS, the independence movements in many countries in the Caribbean during the 1960's and the consequential establishment of independent democratic countries in Caribbean strengthened ties between the region and the United States; and

PROCLAMATIONS

WHEREAS, Alexander Hamilton, a founding father of the United States and the first Secretary of the Treasury, was born in the Caribbean; as also were Jean Baptiste Point du Sable, the pioneer settler of Chicago, Shirley Chisholm, the first African-American Congresswoman and first African-American woman candidate for President, and Celia Cruz, the world renowned queen of salsa music; and

WHEREAS, the many other influential Caribbean-Americans in the history of the United States also include Colin Powell, the first African-American Secretary of State; Sidney Poitier, a Bahamian-American who was the first actor of African descent to receive the Academy Award for best actor in a leading role; Roberto Clemente, the first Latino inducted into the baseball hall of fame; and Al Roker, a meteorologist and television personality; and

WHEREAS, Caribbean-Americans have contributed greatly to education, fine arts, business, literature, journalism, sports, fashion, politics, government, the military, music, science, technology, and other areas in the United States; and

WHEREAS, Caribbean-Americans share their culture through carnivals, festivals, music, dance, film, and literature that enrich the cultural landscape of the United States; and

WHEREAS, the people of the Caribbean region share the hopes and aspirations of the people of the State of Illinois, and the United States, for peace and prosperity:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 2008 as **NATIONAL CARIBBEAN-AMERICAN HERITAGE MONTH** in Illinois, and encourage all citizens to learn about the wonderful contributions that Caribbean-Americans have made to our state, and to the nation as a whole.

Issued by the Governor April 8, 2008

Filed by the Secretary of State April 11, 2008

2008-145**Comcast Cares Day**

WHEREAS, Comcast is an active and engaged member of the State of Illinois and supports its growth and well-being through partnerships, grants and volunteer activities; and

WHEREAS, volunteering is one of the best ways one can give back to their community, and truly empowers an individual and organizes an entire community; and

PROCLAMATIONS

- WHEREAS, Comcast Cares Day is a celebration of service, and is one of the largest national days of service that brings employees, families, friends, and community partners together for a common purpose; and
- WHEREAS, among many events, company-wide day of service projects will include food drives, blood drives, collection of school supplies, and cleaning and maintenance of some of Illinois' beautiful scenic landscape; and
- WHEREAS, in 2001, Comcast received the cable industry's Golden Beacon Award acknowledging Comcast Cares Day for its widespread and positive impact on the communities they serve; and
- WHEREAS, nationally, this year Comcast has a goal of 50,000 volunteers providing an outpouring of service on a single day equivalent to 300,000 hours of service; and
- WHEREAS, Comcast Cares Day promotes a spirit of corporate responsibility thanks to the hard work, dedication and service of more than 4,000 Comcast volunteers in Illinois providing service to 41 projects throughout the state:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 3, 2008 as **COMCAST CARES DAY** in Illinois in recognition of all the volunteers involved in this effort to make a positive impact on the well-being of others, and the well-being of this state as a whole.

Issued by the Governor April 8, 2008

Filed by the Secretary of State April 11, 2008

2008-146**LINC TELACU Scholars Day**

- WHEREAS, the TELACU Scholarship Program was created in 1983 to help raise the promise, performance and potential of Latino students dedicated to continuing their education; and
- WHEREAS, in 1991, the TELACU Education Foundation was established to expand the TELACU Scholarship Program in an effort to provide a comprehensive program of counseling, mentoring and advancement opportunities; and
- WHEREAS, in 2000, TELACU expanded its educational efforts on a national level with the creation of Latino Initiative for the New Century (LINC); and

PROCLAMATIONS

WHEREAS, LINC TELACU Scholarships have impacted many lives, supporting more than 600 students each year through a unique collaboration of business and colleges and universities; and

WHEREAS, the LINC TELACU Education Foundation has an established record of success, with one hundred percent of all high school and college senior award recipients completing graduation; and

WHEREAS, this year's LINC TELACU Scholarship Award Recipients are to be commended for their outstanding record of achievement, dedication to their community, and hard work in meeting higher academic goals; and

WHEREAS, on May 30, 2008, the LINC TELACU Education Foundation will honor its talented scholarship recipients and celebrate its accomplishments and lasting contributions to society:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 30, 2008, as **LINC TELACU SCHOLARS DAY** in Illinois, and urge all citizens to recognize LINC TELACU for their great efforts in the academic advancement of Latino students.

Issued by the Governor April 8, 2008

Filed by the Secretary of State April 11, 2008

2008-147**National Gymnastics Day**

WHEREAS, gymnastics is a great way to engage Illinois children in healthy activities while teaching them valuable personal and social skills such as teamwork, commitment, and sportsmanship; and

WHEREAS, USA Gymnastics, whose mission it is to encourage participation and the pursuit of excellence in sports, established National Gymnastics Day in 1999 to promote physical fitness and healthy lifestyles; and

WHEREAS, in support of National Gymnastics Day, gymnastics clubs across the United States partner with USA Gymnastics to heighten the visibility of the sport and encourage participation at the grassroots level; and

WHEREAS, National Gymnastics Day aims to serve the community and our nation's youth by raising funds and awareness for the Children's Miracle Network in order to

PROCLAMATIONS

provide comfort and assistance to children who are unable to provide for themselves:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 13, 2008 as **NATIONAL GYMNASTICS DAY** in Illinois to encourage citizens of the state to support the worthy and charitable efforts of USA Gymnastics.

Issued by the Governor April 9, 2008

Filed by the Secretary of State April 11, 2008

2008-148**National Nurses Week**

WHEREAS, the more than 2.9 million nurses in the United States comprise our nation's largest health care profession; and

WHEREAS, there are over 148,000 registered nurses in the state of Illinois; and

WHEREAS, the depth and extensiveness of the registered nursing profession meets the diverse, and emerging health care needs of the American population in a wide range of settings; and

WHEREAS, professional nursing has been demonstrated to be an indispensable component in the safety and quality care of hospitalized patients; and

WHEREAS, currently, there is a nursing shortage in the State of Illinois, as well as across the United States, and therefore it is important that we work to encourage people to take up this noble line of work; and

WHEREAS, the future will bring a great demand for registered nursing services due to a large, aging American population, the continuing expansion of life-sustaining technology, and the explosive growth of home health care services; and

WHEREAS, the cost-effective, safe and quality health care services provided by registered nurses will no doubt become an even more important component to the U.S. health care system in the years to come:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 6 – 12, 2008 as **NATIONAL NURSES WEEK** in Illinois, and encourage all citizens to recognize and honor nurses in their communities, for the hard work, and invaluable services they provide for citizens.

PROCLAMATIONS

Issued by the Governor April 9, 2008
Filed by the Secretary of State April 11, 2008

2008-149
National Water Safety Month

WHEREAS, water safety education plays a vital role in preventing drownings and recreational water-related injuries; and

WHEREAS, by taking proactive steps learned through water-safety education, people can ensure healthy practices when enjoying water recreation. These healthy practices, for example, can prevent water-borne illnesses; and

WHEREAS, trained and certified aquatics professionals who develop water-safety rules allow for water recreation activities to be both fun and safe at the same time; and

WHEREAS, the safest aquatic recreational activities are in treated-water facilities; and

WHEREAS, effective water-safety programs are one of the best ways to prevent water-related injuries and deaths:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2008 as **NATIONAL WATER SAFETY MONTH** in Illinois, and encourage all citizens to support and promote the importance of practicing safety in water recreation.

Issued by the Governor April 9, 2008
Filed by the Secretary of State April 11, 2008

2008-150
Elks National Youth Week

WHEREAS, the Benevolent and Protective Order of Elks is one of the largest and most active fraternal organizations in the world, boasting more than 1.1 million members nationwide; and

WHEREAS, the Elks are dedicated to providing youth with a future full of hope and promise by providing college scholarships to graduating high school seniors. This continued dedication has made the Elks the largest private source of college scholarships in the nation; and

PROCLAMATIONS

WHEREAS, in 1997, the Elks made seven promises to America's youth, among which were: sponsoring drug-free prom or graduation parties in 2,000 communities by the year 2000, developing mentoring relationships with 20,000 youth and involving 275,000 youth in community service initiatives, and donating \$34.9 million a year in support of scouting, athletic programs, and other youth organizations and programs; and

WHEREAS, by making this commitment to future generations, members of the organization are taking the meaning of their motto, "Elks Care, Elks Share," to a whole new level; and

WHEREAS, the Elks Lodges of the State of Illinois will observe the first week in May as Elks National Youth week in tribute to our youth and to honor them for their achievements and contributions to the life of our communities and the state and nation as a whole; and

WHEREAS, it is our responsibility to guide, inspire and encourage our youth to go forth to serve America, our privilege to manifest a lively interest in all their activities and ambitions, and help prepare them for the duties and opportunities of citizenship, which is the objective of Elks National Youth Week:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim the first week of May 2008 as **ELKS NATIONAL YOUTH WEEK** in Illinois, and encourage all citizens to recognize our youth for their achievements and contributions to their communities.

Issued by the Governor April 10, 2008

Filed by the Secretary of State April 11, 2008

2008-151**Midwest Eye-Banks Day**

WHEREAS, on Friday, April 25, Midwest Eye-Banks will hold their 10th Annual Gift of Sight Gala in Chicago; and

WHEREAS, Midwest Eye-Banks, which is dedicated to the restoration of sight, is comprised of the Illinois Eye-Banks in Chicago and Bloomington, the Michigan Eye-Bank in Ann Arbor, and the Lions Eye-Bank in New Jersey; and

WHEREAS, Midwest Eye-Banks accomplishes its mission through public and professional education, donor coordination, and distribution of eye tissue for transplantation, research, and training; and

PROCLAMATIONS

WHEREAS, Midwest Eye-Banks also supports preliminary research into the causes and cures of blinding eye conditions, as well as provides humanitarian aid, both at home and abroad, to those unable to afford transplant procedures by waiving their service fees when a charitable need exists; and

WHEREAS, the Annual Gift of Sight Gala is one of Midwest Eye-Banks' biggest fundraisers, and this year they will honor Beverly Blettner as their 2008 Woman of Vision for her generous support of civic and charitable initiatives:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 25, 2008 as **MIDWEST EYE-BANKS DAY** in Illinois to encourage continued support for Midwest Eye-Banks so they can continue providing their valuable programs and services for years to come, as well as to recognize and commend them and Beverly Blettner for all of their contributions to the community.

Issued by the Governor April 11, 2008

Filed by the Secretary of State April 11, 2008

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