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Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from May 15, 2017 until July 3, 2017.

INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2017

Issue#	Rules Due Date	Date of Issue
1	December 27, 2016	January 6, 2017
2	January 3, 2017	January 13, 2017
3	January 9, 2017	January 20, 2017
4	January 17, 2017	January 27, 2017
5	January 23, 2017	February 3, 2017
6	January 30, 2017	February 10, 2017
7	February 6, 2017	February 17, 2017
8	February 14, 2017	February 24, 2017
9	February 21, 2017	March 3, 2017
10	February 27, 2017	March 10, 2017
11	March 6, 2017	March 17, 2017
12	March 13, 2017	March 24, 2017
13	March 20, 2017	March 31, 2017
14	March 27, 2017	April 7, 2017
15	April 3, 2017	April 14, 2017
16	April 10, 2017	April 21, 2017
17	April 17, 2017	April 28, 2017
18	April 24, 2017	May 5, 2017
19	May 1, 2017	May 12, 2017
20	May 8, 2017	May 19, 2017

21	May 15, 2017	May 26, 2017
22	May 22, 2017	June 2, 2017
23	May 30, 2017	June 9, 2017
24	June 5, 2017	June 16, 2017
25	June 12, 2017	June 23, 2017
26	June 19, 2017	June 30, 2017
27	June 26, 2017	July 7, 2017
28	July 3, 2017	July 14, 2017
29	July 10, 2017	July 21, 2017
30	July 17, 2017	July 28, 2017
31	July 24, 2017	August 4, 2017
32	July 31, 2017	August 11, 2017
33	August 7, 2017	August 18, 2017
34	August 14, 2017	August 25, 2017
35	August 21, 2017	September 1, 2017
36	August 28, 2017	September 8, 2017
37	September 5, 2017	September 15, 2017
38	September 11, 2017	September 22, 2017
39	September 18, 2017	September 29, 2017
40	September 25, 2017	October 6, 2017
41	October 2, 2017	October 13, 2017
42	October 10, 2017	October 20, 2017
43	October 16, 2017	October 27, 2017
44	October 23, 2017	November 3, 2017
45	October 30, 2017	November 13, 2017
46	November 6, 2017	November 17, 2017
47	November 13, 2017	November 27, 2017
48	November 20, 2017	December 1, 2017
49	November 27, 2017	December 8, 2017
50	December 4, 2017	December 15, 2017
51	December 11, 2017	December 26, 2017
52	December 18, 2017	December 29, 2017

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Renewable Portfolio Standard and Clean Coal Standard for Alternative Retail Electric Suppliers and Utilities Operating Outside Their Service Areas
- 2) Code Citation: 83 Ill. Adm. Code 455
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
455.10	Amendment
455.100	Amendment
455.110	Amendment
455.120	Amendment
455.125	New Section
455.130	Amendment
455.150	Amendment
455.160	New Section
455.210	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 16-115D of the Public Utilities Act [220 ILCS 5/16-115D].
- 5) A Complete Description of the Subjects and Issues Involved: PA 99-906 takes effect on June 1, 2017, amending a number of statutes related to energy and renewable resources. One set of changes made by the legislation affects Section 16-115D of the Public Utilities Act, concerning renewable portfolio standards for retail electric suppliers and electric utilities operating outside their service areas. These revisions to Part 455 are intended to address the changes made by the new legislation.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes, see page 6966.

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- 11) Statement of Statewide Policy Objective: The proposed rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register*, in Docket No. 17-0267 with:

Elizabeth Rolando, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/782-7434
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance:
Bookkeeping and filing procedures
 - C) Types of professional skills necessary for compliance: Managerial and accounting skills
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: The Commission did not anticipate the need for this rulemaking at that time.

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

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TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 455

RENEWABLE PORTFOLIO STANDARD AND CLEAN COAL
STANDARD FOR ALTERNATIVE RETAIL ELECTRIC SUPPLIERS
AND UTILITIES OPERATING OUTSIDE THEIR SERVICE AREAS

SUBPART A: GENERAL PROVISIONS

Section	
455.10	Definitions and Incorporations
455.20	Record Retention, Additional Documentation, and Confidential Information
455.30	Waivers

SUBPART B: RENEWABLE PORTFOLIO STANDARD REQUIREMENTS

Section	
455.100	Applicability of Subpart B
455.110	Obligation to Procure Renewable Energy Resources
455.120	Annual Report of Compliance with Renewable Energy Portfolio Standard
<u>455.125</u>	<u>Annual Report of Compliance with the Retail Charge Provisions of the Renewable Energy Portfolio Standard</u>
455.130	Alternative Compliance Payment Requirements
455.140	Procedures for Section 16-115D(h) Determination Based on the Operation of Combined Heat and Power Systems
455.150	Other Commission Proceedings
<u>455.160</u>	<u>ARES Self-Generation Compliance Option</u>

SUBPART C: COMPLIANCE WITH CLEAN COAL STANDARD REQUIREMENTS

Section	
455.200	Applicability of Subpart C
455.210	Reporting of Compliance with Clean Coal Standard

AUTHORITY: Implementing and authorized by Sections 16-115 and 16-115D of the Public Utilities Act [220 ILCS 5/16-115 and 16-115D].

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SOURCE: Emergency rules adopted at 34 Ill. Reg. 3115, effective February 19, 2010, for a maximum of 150 days; emergency expired July 18, 2010; adopted at 34 Ill. Reg. 10721, effective July 19, 2010; emergency amendment at 41 Ill. Reg. 6968, effective June 1, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 455.10 Definitions and Incorporations

The following terms as used in this Part shall have the following meanings:

"Act" means the Public Utilities Act [220 ILCS 5].

"Agency" means the Illinois Power Agency [20 ILCS 3855].

"Alternative retail electric supplier" or "ARES" has the same meaning as in Section 16-102 of the Act.

"Clean coal facility" has the same meaning as in Section 1-10 of the IPA Act.

"Clean coal standard" means the various requirements imposed by Sections 16-115(d)(5) and 16-116(c) of the Act on ARES and electric utilities serving retail customers outside their service areas to source electricity from clean coal facilities.

"Commission" means the Illinois Commerce Commission.

"Compliance period" or "compliance year" means each 12-month period beginning June 1 and ending May 31, commencing June 1, 2009, and the comparable 12-month period in each succeeding year.

"Covered amount of energy supplied" or "covered amount" refers to the amount of energy supplied (megawatt-hours) by an RES that is covered by the electric utility's renewable energy resources procurement obligations pursuant to Section 1-75(c)(1)(B) of the IPA Act. For the compliance year ending May 31, 2018, the covered amount equals 50% of the energy supplied by the RES to Illinois retail customers during the compliance year. For the compliance year ending May 31, 2019, the covered amount equals 75% of the energy supplied by the RES to Illinois retail customers during the compliance year. For the compliance year

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ending May 31, 2020 and thereafter, the covered amount equals 100% of the energy supplied by the RES to Illinois retail customers during the compliance year.

"Delivery services" has the same meaning as in Section 16-102 of the Act.

"Electric cooperative" has the same meaning as in Section 3.4 of the Electric Supplier Act [220 ILCS 30/3.4].

"Electric utility" has the same meaning as in Section 16-102 of the Act.

"IPA Act" means the Illinois Power Agency Act [20 ILCS 3855].

"M-RETS" means the Midwest Renewable Energy Tracking System or its successor.

"Municipal system" means any public utility owned and operated by any political subdivision or municipal corporation of the State of Illinois, or owned by such an entity and operated by its lessee or agent.

"PJM-GATS" means the PJM Environmental Information System Generation Attribute Tracking System or its successor.

"Renewable energy credit" or "REC" has the same meaning as in Section 1-10 of the IPA Act.

"Renewable energy resources" has the same meaning as in Section 1-10 of the IPA Act. For compliance years ending on or before May 31, 2017, renewable energy resources also includes energy and its associated renewable energy credit or renewable energy credits from other alternative sources of environmentally preferable energy.

"Renewable portfolio standard" or "RPS" means the various requirements imposed by Section 16-115D of the Act on ARES and electric utilities serving retail customers outside their service area.

"Retail customer" has the same meaning as in Section 16-102 of the Act.

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"Retail electric supplier" or "RES" includes both ARES and electric utilities serving or seeking to serve retail customers outside their service area.

"Service area" has the same meaning as in Section 16-102 of the Act.

"Supplied", in relation to a quantity of energy, means energy obtained by an RES and delivered to a retail customer by an electric utility providing delivery services to the retail customer, with the quantity of energy measured at the customer meter; provided, however, that only with respect to determining whether a combined heat and power system in Illinois supplies electricity primarily to or for the benefit of facilities identified in Section 16-115 D(h) of the Act. "Supplied" also includes energy generated by a combined heat power system used at those facilities, regardless of whether it passes through the customer meter and provided that only with respect to determining the requirements of Section 16-115D of the Act for electric utilities serving retail customers outside their service area. "Supplied" includes energy obtained by the utility and delivered to retail customers outside of the utility's service area.

"Uncovered amount of energy supplied" or "uncovered amount" refers to the amount of energy supplied (megawatt-hours) by an RES that is not covered by the electric utility's renewable energy resources procurement obligations pursuant to Section 1-75(c)(1)(B) of the IPA Act. For the compliance year ending May 31, 2018, the uncovered amount equals 50% of the energy supplied by the RES to Illinois retail customers during the compliance year. For the compliance year ending May 31, 2019, the uncovered amount equals 25% of the energy supplied by the RES to Illinois retail customers during the compliance year. For compliance years ending May 31, 2020 and after, the uncovered amount equals 0% of the energy supplied by the RES to Illinois retail customers during the compliance year.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART B: RENEWABLE PORTFOLIO STANDARD REQUIREMENTS

Section 455.100 Applicability of Subpart B

This Subpart applies to RES and electric utilities, as applicable. This Subpart does not apply to electric cooperatives or municipal systems making an election under Section 17-300 of the Act to

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become an ARES or, except as provided in Section 455.140, to an ARES that is exempt from the requirements of Section 16-115D of the Act.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 455.110 Obligation to Procure Renewable Energy Resources

- a) Each RES shall procure cost-effective renewable energy resources in accordance with the requirements of Section 16-115D of the Act.
- b) For an RES/ARES, the obligation to procure renewable energy resources is expressed in units of electricity (megawatt-hours) and is measured as a percentage of the actual amount of metered electricity supplied to the RES/ARES Illinois retail customers during each compliance year, pursuant to contracts executed or extended after March 15, 2009 (see 220 ILCS 5/16-115D(a)(2), (a) and (6), and (g)).
- ~~e)~~ ~~For electric utilities serving retail customers outside their service area, the obligation to procure renewable energy resources is expressed in units of electricity (megawatt hours) and is measured as a percentage of the actual amount of metered electricity supplied in the State by the utility outside of its service area during each compliance year, pursuant to contracts executed or extended after March 15, 2009 (see 220 ILCS 5/16-115D(a)(2), (a)(6) and (g)).~~
- ~~c)~~ For compliance years ending on or before May 31, 2017, the The minimum quantity of renewable energy resources to be procured for each compliance year shall be calculated based on the annual percentages set forth in Section 1-75(c)(1) of the IPA Act (see 220 ILCS 5/16-115D(a)(3)). For compliance years ending on or before May 31, 2017, renewable energy resources also includes energy and its associated renewable energy credit or renewable energy credits from other alternative sources of environmentally preferable energy. For the compliance year ending on May 31, 2018, the minimum quantity of renewable energy resources to be procured shall be equal to 13% of the uncovered amount of energy supplied during the compliance year (see 220 ILCS 5/16-115D(a)(3.5)). For the compliance year ending on May 31, 2019, the minimum quantity of renewable energy resources to be procured shall be equal to 14.5% of the uncovered amount of energy supplied during the compliance year (see 220 ILCS 5/16-115D(a)(3.5)). For compliance years ending on or after May 31, 2020, RES do not have an obligation pursuant to Section 16-115D of the Act to procure renewable energy

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resources. For an ARES that meets the requirements of Section 1-75(c)(1)(H) of the IPA Act, the ARES obligation to purchase renewable energy resources shall be reduced in accordance with Section 455.160.

- d) For compliance years ending on or before May 31, 2017, at least 60% and at least 6% of the RES obligation to procure renewable energy resources shall come from wind and solar photovoltaic generation, respectively. For compliance years ending on or before May 31, 2017, renewable energy resources also includes energy and its associated renewable energy credit or renewable energy credits from other alternative sources of environmentally preferable energy. For compliance years ending on May 31, 2018 and May 31, 2019, at least 32% of the RES obligation to procure renewable energy resources shall come from wind or photovoltaic generation.
- e) For compliance years ending on or before May 31, 2017, at least 50% of the obligation to procure renewable energy resources must be satisfied by making alternative compliance payments, and the balance of the obligation to procure renewable energy resources may be satisfied by generating electricity using renewable energy resources, purchasing electricity generated using renewable energy resources, purchasing renewable energy credits from renewable energy resources, or making alternative compliance payments (see 220 ILCS 5/16-115D(b)(1) and (3)). For compliance years ending on or before May 31, 2017, renewable energy resources also includes energy and its associated renewable energy credit or renewable energy credits from other alternative sources of environmentally preferable energy. For compliance years ending on May 31, 2018 and May 31, 2019, the obligation to procure renewable energy resources may be satisfied by generating electricity using renewable energy resources, purchasing electricity generated using renewable energy resources, purchasing renewable energy credits from renewable energy resources, making alternative compliance payments, or a combination thereof (see 220 ILCS 5/16-115D(b)(2) and (3))(see 220 ILCS 5/16-115D(b)(2)).
- f) Alternative compliance payment rate. The "maximum alternative compliance payment rate" for each compliance year shall be equal to the maximum allowable annual estimated average net increase due to the costs of the utility's purchase of renewable energy resources included in the amounts paid by eligible retail customers in connection with electric service, as described in Section 1-75(c)(2) of the IPA Act for the compliance period, as established in the approved procurement plan. The "actual alternative compliance payment rate" will be equal

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to the lower of the maximum alternative compliance payment rate or the total amount of dollars the utility actually spent on renewable energy resources for the compliance period divided by the forecasted load of eligible retail customers for which the utility is procuring renewable energy resources in a given compliance year, at the customers' meters, as previously established in the Commission-approved procurement plan for that compliance year. (See Section 16-115D(d)(1) of the Act.)

- g) To the extent to which a RES seeks to meet its obligation to procure renewable energy resources by generating electricity using renewable energy resources, purchasing electricity generated using renewable energy resources, or purchasing renewable energy credits, those the Act establishes minimum percentages that must be procured from specific renewable resource types (wind and solar photovoltaic) and specifies the locations where the resources or the resources generating the renewable energy credits must be located (within Illinois, Wisconsin, Indiana, Iowa, Kentucky, Michigan or Missouri, within states that adjoin Illinois or within portions of the PJM and MISO footprint in the United States) (see 220 ILCS 5/16-115D(a)(43)). Renewable energy credits used toward compliance for a compliance year must be generated during that compliance year or during the two previous compliance years. (See 220 ILCS 5/16-115D(c)(1).) Renewable energy credits from other alternative sources of environmentally preferable energy may not be used toward compliance beyond compliance years ending on May 31, 2017. For purposes of this Subpart, the states that adjoin Illinois are Wisconsin, Indiana, Iowa, Kentucky, Michigan and Missouri.
- h) For a compliance year, an RES' obligation to procure renewable energy resources by generating electricity using renewable energy resources, purchasing electricity generated using renewable energy resources, or purchasing renewable energy credits from renewable energy resources is determined according to the following formula:

$$RR_u = [\text{Applicable Supply}_u - (\text{Payment}_u / \text{ACPRate}_u)] \times \text{Requirement}$$

where:

RR_u is the RES' obligation to procure renewable energy resources by generating electricity using renewable energy resources, purchasing electricity generated using renewable energy resources, or purchasing renewable energy

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credits from renewable energy resources (in megawatt-hours) in utility service area u;

Applicable Supply_u is, for compliance years ending on or before May 31, 2017, the amount of metered electricity supplied to the RES' Illinois retail customers in utility service area u during the compliance year (in megawatt-hours) and is, for compliance years ending on May 31, 2018 and May 31, 2019, the uncovered amount of energy supplied to the RES' Illinois retail customers in utility service area u during the compliance year (in megawatt-hours).

Payment_u is the amount of the alternative compliance payment (in \$) made by the RES in utility service area u, including, for compliance years ending on or before May 31, 2017, mandatory ACP payments made in compliance with subsection (e);

ACPRate_u is the actual alternative compliance payment rate (in \$ per megawatt-hour) in utility service area u;

Requirement is the annual renewable requirement percentages specified or referenced in subsection (c) (expressed in decimal form).

- i) Alternative compliance payments may be used to reduce the wind and/or photovoltaic requirements identified in subsection (d).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 455.120 Annual Report of Compliance with Renewable Energy Portfolio Standard

By September 1, 2010, and by September 1 of each succeeding year through September 1, 2019, each RES shall file with the Chief Clerk of the Commission ~~and provide to the Directors of the Energy Division and the Financial Analysis Division of the Commission, or to their successors,~~ a compliance report for the compliance year ending May 31 of that year, showing compliance with the renewable portfolio standard of Section 16-115D of the Act for the applicable compliance period. The report shall be titled "Annual Report of Compliance with Renewable Portfolio Standard".

- a) At a minimum, the compliance report shall provide, contain or show, for the applicable compliance year, and for each utility service area within which the

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~~RESARES~~ serves Illinois retail customers, ~~or the electric utility serves retail customers outside its service area~~ the following:

- 1) The total quantity of metered electricity supplied to Illinois retail customers by the ~~RESARES~~ ~~or the quantity of metered electricity supplied by an electric utility in Illinois outside the utility's service area~~. The report shall show this information, in megawatt-hours, by service area for each electric utility that is subject to Section 1-75(c) of the IPA Act;
 - 2) The quantity of metered electricity supplied to Illinois retail customers by the ~~RESARES~~, ~~or the quantity of metered electricity supplied by an electric utility in Illinois outside the utility's service area~~, pursuant to contracts executed or extended after March 15, 2009. The report shall show this information, by utility service territory, in megawatt-hours;
 - 3) The quantity of RECs (in megawatt-hours), whether directly purchased or arising from generating electricity or purchasing electricity generated from renewable energy resources, that were retired for purposes of meeting the requirements of the renewable portfolio standard for the compliance period ~~in each utility service area~~. The report shall also show the quantity and percentage of these RECs that were derived from ~~each renewable energy source typewind-powered-generation resources. For compliance periods starting on and after June 1, 2015, the report shall also show the quantity and percentage of these RECs that were derived from solar photovoltaic resources~~. All REC quantities reported shall be categorized by regional REC tracking system: PJM-GATS and M-RETS; and
 - 4) The alternative compliance payments that were made for purposes of meeting the requirements of the renewable portfolio standard for the compliance period ~~by utility service area~~.
- b) ~~Documentation requirements for compliance~~ ~~Compliance~~ methods other than alternative compliance payments
- 1) If a RES seeks to comply with the RPS by generating electricity using renewable energy resources, purchasing electricity generated using renewable energy resources, or purchasing renewable energy credits, the only acceptable proof of compliance shall be in the form of verifiable documentation from PJM-GATS or M-RETS of the retirement of

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renewable energy credits associated with the production of electricity using renewable energy resources in accordance with Section 16-115D(a)(4) of the Act. The RES shall clearly indicate the PJM-GATS and M-RETS account names and sub-account names that are included in the documentation~~Prior to identification of renewable energy resources as required under Section 16-115D(a)(4) of the Act, RECs meeting the definition of renewable energy resources as used in the Act and the type and locational requirements of Section 455.110(g) shall qualify for purposes of compliance.~~

- 2) Documentation~~If any of these means of compliance are used by the RES during a compliance period, the annual report shall be accompanied by documentation from PJM-GATS and M-RETS of the RECs that were retired for purposes of meeting the requirements of the renewable portfolio standard for the compliance period. At a minimum, the documentation provided shall show, at a minimum:~~
 - A) the generating facility associated with the RECs;
 - B) the location of each of the generating facilities associated with the RECs;
 - CA) the quantity of RECs associated with each of those generating facilities and the month and year that the electricity associated with the RECs was generated;
 - DB) the retirement status of the RECs; and
 - EC) the State RPS and compliance period for which the RECs were retired; and
 - D) whether the renewable resource associated with the RECs was located in Illinois, within states that adjoin Illinois or within portions of the PJM and MISO footprint in the United States.
- 3) If PJM-GATS and M-RETS only allow account holders to designate calendar year compliance periods, the RES shall designate the year at the end point of the Illinois compliance period. For example, for Illinois' June

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2016-May 2017 compliance period, the RES shall designate 2017 if the option to designate 2016-2017 is not available.

- 4) For compliance periods ending on or after May 31, 2018, a certification that RECs used for compliance for the compliance period were not produced by facilities whose costs were being recovered through rates regulated by any state or states on or after January 1, 2017.
- c) If metered electricity supplied to Illinois retail customers by an RES is supplied during the compliance period pursuant to contracts that were not executed or extended after March 15, 2009, the ~~RES~~ ~~or utility~~ shall provide a list, by utility service area, of those Illinois retail customers who received electricity that was not supplied pursuant to contracts executed or extended after March 15, 2009. The list shall include the following information: account numbers and the quantity of electricity (in megawatt-hours) supplied to the account numbers during the compliance period that was not supplied pursuant to contracts executed or extended after March 15, 2009.
- d) If the Commission has entered an order pursuant to Section 16-115D(h) of the Act determining that the provisions of Section 16-115D and Section 16-115(d) of the Act relating to procurement of renewable energy resources do not apply to a RES, the RES shall include in its annual compliance report:
- 1) The docket number of the Commission proceeding in which a Commission order determined that the provisions of Section 16-115D and Section 16-115(d) of the Act relating to procurement of renewable energy resources do not apply to the RES;
 - 2) a statement indicating whether the conditions or circumstances giving rise to the Commission's determination continued to apply to the RES during the compliance year; and
 - 3) the further demonstrations identified in the Commission's order of compliance with the criteria identified in Section 16-115D(h) of the Act.
- e) All reports filed or provided under this Section shall be verified by an executive officer of the ~~RES~~ ~~filing party~~ having knowledge of the facts before either a notary public or other officer authorized to administer oaths.

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(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 455.125 Annual Report of Compliance with the Retail Charge Provisions of the Renewable Energy Portfolio Standard

By September 1, 2020, and by September 1 of each succeeding year, each RES shall file with the Chief Clerk of the Commission a compliance report for the compliance year ending May 31 of that year, certifying that the RES did not recover from its retail customers through its rates or charges the costs for any renewable energy resources procured or otherwise acquired by any entity in compliance with the requirements of the Act or the IPA Act, with the exception, if applicable, of renewable energy resources that meet the requirements of Section 1-75(c)(3)(H) of the IPA Act. The report shall be titled "Annual Section 16-115D(i) Compliance Report". All reports filed or provided under this Section shall be verified by an executive officer of the RES having knowledge of the facts before either a notary public or other officer authorized to administer oaths.

(Source: Added at 41 Ill. Reg. _____, effective _____)

Section 455.130 Alternative Compliance Payment Requirements

- a) ~~Alternative compliance payments may, subject to the requirements and limitations in Section 455.110, be used to meet RES renewable portfolio standard requirements for each service area within which a RES supplied electricity shall be equal to the actual alternative compliance payment rate for the compliance period for the service area multiplied by the actual amount of metered electricity supplied pursuant to contracts executed or extended after March 15, 2009 to retail customers within the service area during the compliance period, multiplied by the result of one minus the ratio (which cannot exceed 1/2) of the quantity of renewable energy resources used to comply with the requirements of Section 16-115D within the service area to the product of the percentage of renewable energy resources required for the compliance period under Section 16-115D(a)(3) of the Act and the actual amount of metered electricity supplied pursuant to contracts executed or extended after March 15, 2009 to retail customers within the service area during the compliance period. (See 220 ILCS 5/16-115D(b) and (d)(3).) For determining the number of megawatt hours of renewable energy credits that must be purchased for compliance, a RES may convert alternative compliance payment dollar amounts into megawatt-hour equivalents, by multiplying the payment by the total RPS percentage requirement and then dividing by the applicable alternative compliance payment rate (the latter expressed in dollars per megawatt-~~

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~~hour), at which point a RES may allocate in any manner desired the megawatt-hour equivalents of its alternative compliance payments toward satisfying the wind, solar photo-voltaic, and non-specific renewable energy requirements for the compliance period.~~

- b) The dollar amount of alternative compliance payments shall be calculated using the applicable alternative compliance payment rates approved by the Commission.
- c) Alternative compliance payments shall be made by September 1, 2010 for the compliance period of June 1, 2009 to May 31, 2010, and by September 1 of each succeeding year for each subsequent compliance period.

d) Submission of Compliance Payments

- 1) Alternative compliance payments for the compliance periods ending on or before May 31, 2016~~Alternative compliance payments~~ shall be made by check, payable to "Illinois Commerce Commission", and shall be delivered to the following address:

Illinois Commerce Commission
Administrative Services Division
Attn: Manager of the Revenues Section
Re: Illinois Power Agency Renewable Energy Resources Fund
527 East Capitol Avenue
Springfield IL 62701

- 2) Alternative compliance payments shall be deemed made only when actually received at the office of the Commission at the specified address. Payment by a check that does not clear after being deposited by the Commission shall be deemed to not have been made.
- 3) Alternative compliance payments for the compliance periods ending on or after May 31, 2017, shall be submitted to each electric utility within whose service area the RES has provided energy to retail customers in a manner specified in electric utility tariffs in effect when the payment is made. If an electric utility does not have a tariff governing the alternative compliance payments in effect at the time alternative compliance payments for the compliance period are due, the RES is still obligated to make payment for the compliance period but the RES shall hold the payment until such time

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as the electric utility's tariff goes into effect. Alternative compliance payments shall be deemed made only when actually received by the electric utility. Payment by a check that does not clear after being deposited by the electric utility shall be deemed not to have been made.

- e) Within one business day after the submission of any alternative~~Alternative~~ compliance payments, whether submitted to the Commission or an electric utility, the RES shall ~~send~~ be accompanied by a letter to the Chief Clerk of the Commission ~~and the Director of the Energy Division or their successors~~ containing the following information:
- 1) "Re: 83 Ill. Adm. Code 455.130~~Illinois Power Agency Renewable Energy Resources Fund~~";
 - 2) Name and address of RES;
 - 3) The RES' FEIN;
 - 4) Name and telephone number of person writing the letter;
 - 5) Dollar ~~amounts~~amount of the ~~check~~ (alternative compliance ~~payments~~payment);
 - 6) The payee for each payment~~Check number~~;
 - 7) Compliance period for which the payment is being made (e.g., June 1, 2009 through May 31, 2010); and
 - 8) An indication whether the payment is intended to satisfy the balance of alternative compliance payment requirements for the compliance period or whether more payments may be forthcoming.
- f) The Commission shall deposit all amounts received for compliance periods ending on or before May 31, 2016 into the Illinois Power Agency Renewable Energy Resources Fund, a special fund in the State treasury administered by the Illinois Power Agency.
- g) The Commission shall carry forward to subsequent compliance periods the dollar amount of any compliance payments recognized by the Commission to be in

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excess of requirements, unless and to the extent to which the RES petitions for and is granted permission to apply ~~to the Illinois Power Agency~~ for a refund.

- h) For purposes of ensuring RES compliance with this Part, electric utilities shall submit reports to the Commission and the Illinois Power Agency in years 2017, 2018 and 2019. These reports shall contain the following information:
- 1) On or before September 1: Metered usage data by RES; and
 - 2) On or before September 30: The amount and date of alternative compliance payments made by each RES to the utility and any refunds made by the utility to an RES pursuant to Section 455.150(c).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 455.150 Other Commission Proceedings

- a) After receipt of an annual report required by Section 455.120 or the due date for these reports, whichever occurs first, the Commission may initiate, on its own motion or, in its discretion, upon the petition of an interested party, and for each RES, a docketed proceeding to investigate whether the RES or utility has complied with the requirements of Section 16-115D of the Act and this Subpart, to determine the amount by which alternative compliance payments have been insufficient or in excess of requirements, and, if applicable, to determine if the demonstrations described in Section 455.140(d)(3) have been made. Pursuant to Section 16-115D(f) of the Act, the RES shall have the burden of proof in this proceeding.
- b) A RES may petition the Commission for permission to apply to the Illinois Power Agency for a refund of compliance payments for a compliance period ending on or before May 31, 2016, recognized by the Commission to be in excess of requirements. The Commission will coordinate with the Illinois Power Agency in developing a process and procedure to implement this subsection (b).
- c) A RES may petition the Commission for permission to apply to an electric utility for a refund of compliance payments for a compliance period ending on May 31, 2017, May 31, 2018, or May 31, 2019 recognized by the Commission to be in excess of requirements. The RES shall serve notice of the petition upon the electric utility. After notice and hearing, the Commission shall issue an order

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granting or denying the petition, and the order shall be served on the RES and electric utility. No later than 60 days after the date on which the Commission issues an order granting the RES' petition for a refund, the electric utility shall issue a refund or provide a credit to the RES. The electric utility shall deduct the amount of the refund or credit from the compliance payments remitted to the electric utility pursuant to Section 455.130. Electric utilities may file tariff sheets to further define the process of RES applying for and receiving the refunds.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 455.160 ARES Self-Generation Compliance Option

- a) If an ARES meets the requirements of Section 1-75(c)(1)(H) of the IPA Act and intends to supply its retail customers with renewable energy credits from a facility or facilities meeting the requirements of that statute, the ARES must submit an information filing with the Chief Clerk of the Commission titled "Code Part 455.160 Renewable Energy Facility Self-Generation Certification" by July 17, 2017 that shall, at a minimum, for each such facility:
- 1) identify the electric generating facility generating renewable energy resources;
 - 2) include a certification that, as of December 31, 2015, the ARES or its predecessor, owned the generating facility;
 - 3) include a certification that the facility generates renewable energy resources; and
 - 4) include a certification that the generating facility is not powered by wind or photovoltaics.
- b) If an ARES has submitted an information filing under subsection (a) and elects to supply its retail customers with renewable energy credits from facilities identified in the information filing under subsection (a), the ARES must submit by February 28 of the year preceding the applicable compliance year or by June 16, 2017, whichever is later, a notification to the Chief Clerk of the Commission of its election titled "Code Part 455.160 Renewable Energy Facility Self-Generation Annual Election" that shall, at a minimum:

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- 1) identify the amount of renewable energy credits to be supplied to each utility's retail customers by the ARES from each facility identified in the ARES Code Part 455.160 Renewable Energy Facility Self-Generation Certification; and
- 2) include a calculation demonstrating that the annual election to supply its retail customers with renewable energy credits from facilities identified in the ARES Code Part 455.160 Renewable Energy Facility Self-Generation Certification adheres to the following limitations:
 - A) For the compliance year ending May 31, 2019, the maximum amount of renewable energy credits to be supplied by an ARES from facilities identified in the ARES Code Part 455.160 Renewable Energy Facility Self-Generation Certification shall be 68% multiplied by 25% multiplied by 14.5% multiplied by the amount of metered electricity (megawatt-hours) delivered by the ARES to Illinois retail customers during the compliance year ending May 31, 2016.
 - B) For the compliance year ending May 31, 2020 and each year thereafter, the maximum amount of renewable energy credits to be supplied by an ARES from facilities identified in the ARES Code Part 455.160 Renewable Energy Facility Self-Generation Certification shall be 68% multiplied by 50% multiplied by 16% multiplied by the amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to Illinois retail customers during the compliance year ending May 31, 2016, provided that the 16% value shall increase by 1.5% each compliance year after the compliance year ending May 31, 2020 to 25% by the compliance year beginning June 1, 2025, and thereafter the 25% value shall apply to each compliance year.
- c) The following subsections of Section 455.160 apply to compliance years when one or more ARES meets the requirements of Section 1-75(c)(1)(H) of the IPA Act and at least one ARES elects to supply its retail customers with renewable energy credits from a facility or facilities meeting the requirements of that statute. Renewable energy credits meeting these requirements are, for purposes of this subsection, referred to as eligible renewable energy credits. On or before April 1 of each year, the IPA will annually publish a report on its website that identifies

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the aggregate amount of eligible renewable energy credits supplied by ARES under this Section.

- 1) The ARES target renewable energy credit quantity for a compliance year shall be equal to the sum of the covered and uncovered amount of energy supplied by the ARES in a utility service area during the compliance year multiplied by a percentage. For the compliance year ending May 31, 2019, the percentage is 14.5%. For the compliance years after May 31, 2019 the 14.5% percentage shall increase by 1.5% each compliance year thereafter to 25% by the compliance year ending on May 31, 2026, and thereafter the 25% percentage shall apply to each compliance year. The target renewable energy credit quantity is expressed in units of electricity (megawatt-hours) and is measured as a percentage of the actual amount of metered electricity supplied to the ARES' Illinois retail customers in the utility service area pursuant to contracts executed or extended after March 15, 2009.
- 2) The Illinois target renewable energy credit quantity for a compliance year shall be equal to the sum of the covered and uncovered amount of energy supplied by RES and utilities in a utility service area during the immediately preceding compliance year multiplied by a percentage. For the compliance year ending May 31, 2019, the percentage shall be 14.5%. For the compliance years after May 31, 2019, the 14.5% percentage shall increase by 1.5% each compliance year thereafter to 25% by the compliance year ending on May 31, 2026, and thereafter the 25% percentage shall apply to each compliance year. The Illinois target renewable credit quantity is expressed in units of electricity (megawatt-hours) and is measured as a percentage of the actual amount of metered electricity supplied to the Illinois retail customers in a utility service area pursuant to contracts executed or extended after March 15, 2009.
- 3) For the compliance year ending May 31, 2019, the maximum amount of eligible renewable energy credits to be provided by an ARES in a utility service area shall be 68% multiplied by 25% multiplied by 14.5% times the amount of the sum of the covered and uncovered amount of energy supplied by the ARES in a utility service area during the compliance year ending May 31, 2016. For the compliance year ending May 31, 2020, the maximum amount of eligible renewable energy credits to be provided by an ARES in a utility service area shall be 68% multiplied by 50%

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multiplied by 16% times the amount of the sum of the covered and uncovered amount of energy supplied by the ARES in a utility service area during the compliance year ending May 31, 2016. For compliance periods ending on or after May 31, 2021, the maximum amount of eligible renewable energy credits to be provided by an ARES in a utility service area shall be 68% multiplied by 50% multiplied by 17.5% times the amount of the sum of the covered and uncovered amount of energy supplied by the ARES in a utility service area during the compliance year ending May 31, 2016, provided that the 17.5% shall increase by 1.5% each compliance period thereafter to 25% by the compliance year ending on May 31, 2026; thereafter, the 25% shall apply to each compliance year.

- 4) For a compliance year, the total amount of eligible renewable energy credits provided by all ARES shall not exceed 9% of the Illinois target renewable energy credit quantity in a utility service area. If the total amount of eligible renewable energy credits provided by ARES exceeds 9% of the Illinois target renewable energy credit quantity in a utility service area for a compliance year, then each amount of eligible renewable energy credits provided by each ARES will be reduced on a pro rata basis so that the total amount of eligible renewable energy credits provided by all ARES equals 9% of the Illinois target renewable energy credit quantity in a utility service area.
- 5) For compliance years ending on or after May 31, 2019, the charges assessed by the electric utility to the ARES customers for the compliance year shall be reduced by the ratio of the quantity of eligible renewable energy credits provided by the ARES in a utility service area compared to the ARES target renewable energy credit quantity in a utility service area for the compliance period.
- 6) For compliance years ending on or after May 31, 2019, the minimum quantity of renewable energy resources to be procured by the ARES for the compliance year, as specified in Section 455.110(c) shall be reduced in a utility service area by the ratio of the quantity of eligible renewable energy credits provided by the ARES compared to the ARES target renewable energy credit quantity for the compliance year.

(Source: Added at 41 Ill. Reg. _____, effective _____)

SUBPART C: COMPLIANCE WITH CLEAN COAL STANDARD REQUIREMENTS

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Section 455.210 Reporting of Compliance with Clean Coal Standard

- a) Within 90 days after approval by the Illinois General Assembly of the initial clean coal facility, each RES shall enter into a sourcing agreement with the initial clean coal facility consistent with the provisions of Section 16-115(d)(5) of the Act. Within 30 days after entering into this sourcing agreement, each RES shall file with the Chief Clerk of the Commission, ~~and provide to the Directors of the Energy Division and the Financial Analysis Division, or their successors,~~ a report confirming that it has entered into the sourcing agreement and attaching a signed copy of the sourcing agreement.
- b) By the earliest September 1 following commercial operation of the initial clean coal facility, and by September 1 of each succeeding year, each RES that is required under the Act or the IPA Act to enter into a sourcing agreement with the initial clean coal facility shall file with the Chief Clerk of the Commission, ~~and provide to the Directors of the Energy Division and the Financial Analysis Division, or their successors,~~ a report showing the amount of energy purchased (or financially settled, if the sourcing agreement is executed as a contract for differences) from the initial clean coal facility by the RES, by month, during the most recent compliance year. The report shall also show how these amounts were consistent with the requirements of Section 16-115(d)(5) of the Act. Each report shall be accompanied by documentation from the initial clean coal facility verifying the amount of energy purchased.
- c) To enable the Commission to monitor progress toward the State's goal that, by January 1, 2025, 25% of the electricity used in the State shall be generated by cost-effective clean coal facilities, beginning no later than September 1, 2010, and by September 1 of each subsequent year, each RES shall file with the Chief Clerk of the Commission, ~~and provide to the Directors of the Energy Division and the Financial Analysis Division, or their successors,~~ a report showing the amount of energy purchased by the RES from clean coal facilities other than the initial clean coal facility, by month, during the most recent compliance year. Each report shall be accompanied by documentation from the clean coal facility verifying the amount of energy purchased.
- d) All reports filed or provided under this Section shall be verified by an executive officer of the RES filing party having knowledge of the facts before either a notary public or other officer authorized to administer oaths.

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(Source: Amended at 41 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Certification for New Utility-Scale Wind and Solar Installers
- 2) Code Citation: 83 Ill. Adm. Code 461
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
461.10	New Section
461.20	New Section
461.30	New Section
461.40	New Section
461.50	New Section
461.60	New Section
461.70	New Section
461.80	New Section
461.90	New Section
461.100	New Section
461.110	New Section
461.120	New Section
- 4) Statutory Authority: Implementing and authorized by Section 16-128A of the Public Utilities Act [220 ILCS 5/16-128A].
- 5) A Complete Description of the Subjects and Issues Involved: PA 99-906 takes effect on June 1, 2016, amending a number of statutes related to energy and renewable resources. One set of changes made by the legislation affects Section 16-128A of the Public Utilities Act, adding provisions on the certification of persons or entities that install utility-scale wind or solar projects. The legislation directs the Agency to promulgate rules to carry out the new provisions, and new Part 461 is intended to address the requirements that have been added to Section 16-128A.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes, see page 6990.

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NOTICE OF PROPOSED RULES

- 11) Statement of Statewide Policy Objective: The proposed rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register*, in Docket No. 17-0268 with:

Elizabeth Rolando, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/782-7434
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance:
Bookkeeping and filing procedures
 - C) Types of professional skills necessary for compliance: Managerial and accounting skills
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: The Commission did not anticipate the need for this rulemaking at that time.

The full text of the Proposed Rules is identical with that of the Emergency Rules for this Part and begins on Page 6990:

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NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Certification for Energy Efficiency Installers
- 2) Code Citation: 83 Ill. Adm. Code 462
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
462.10	New Section
462.20	New Section
462.30	New Section
462.40	New Section
462.50	New Section
462.60	New Section
462.70	New Section
462.80	New Section
462.90	New Section
462.100	New Section
462.110	New Section
462.120	New Section
462.130	New Section
- 4) Statutory Authority: Implementing and authorized by Section 16-128B of the Public Utilities Act [220 ILCS 5/16-128B].
- 5) A Complete Description of the Subjects and Issues Involved: PA 99-906 takes effect in June 1, 2017, amending a number of statutes related to energy and renewable resources. The legislation adds a new Section to the Public Utilities Act, Section 16-128B, concerning the certification of persons or entities that install energy efficiency measures. The legislation directs the Agency to promulgate rules to carry out the new provisions, and new Part 462 is intended to address the requirements contained in new Section 16-128B.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes

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NOTICE OF PROPOSED RULES

- 10) Are there any other rulemakings pending on this Part? Yes, see page 7001.
- 11) Statement of Statewide Policy Objective: The proposed rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register*, in Docket No. 17-0269 with:
- Elizabeth Rolando, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701
- 217/782-7434
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not-for-profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance:
Bookkeeping and filing procedures
- C) Types of professional skills necessary for compliance: Managerial and accounting skills
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: The Commission did not anticipate the need for this rulemaking at that time.

The full text of the Proposed Rules is identical with that of the Emergency Rules for this Part and begins on Page 7001:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Consumer Installment Loan Act
- 2) Code Citation: 38 Ill. Adm. Code 110
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
110.10	Amendment
110.60	Amendment
110.236	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 22 of the Consumer Installment Loan Act [205 ILCS 670/22].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is amending the Sections listed above under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to date; use plain language where appropriate; provide continuity across the balance of our Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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

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

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not applicable
 - B) Reporting, bookkeeping or other procedures required for compliance: Please review the proposed amendments to this Part.
 - C) Types of professional skills necessary for compliance: Administrative/clerical
- 14) Regulatory Agenda on which this rulemaking was summarized: These amendments were not included on either of the 2 most recent agendas because: IDFPR could not have anticipated the signing of Executive Order 2016-13, issued by Governor Rauner on October 17, 2016.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 110

CONSUMER INSTALLMENT LOAN ACT

SUBPART A: GENERAL PROVISIONS

Section

110.1	Definitions
110.10	Minimum Requirements for Office Records
110.15	Application for License; Controlling Person
110.20	Loan Register
110.30	Individual Account Records
110.40	File of Original Papers
110.50	Cash Book
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110.65	Permanent File
110.70	Payments
110.80	Simple Interest Loans
110.90	Cancellation and Return of Documents
110.100	Finance Charges – Rebates and Delinquency Charges
110.110	Hypothecation at the Time of the Sale of Obligor's Notes
110.120	Legal Forms
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110.140	Sale of Security
110.150	Trouble File
110.160	Lien Charges
110.170	Insurance
110.180	Office and Office Hours
110.190	Advertising
110.200	Other Business
110.210	Examination Remittances
110.215	Document Preparation Fee
110.216	Small Consumer Loans; Charges Permitted
110.220	Credit Practices
110.225	Verification of Amount Owning
110.230	General
110.235	Relocation

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110.236	Name Change
110.240	Hearing Procedures
110.250	Limited Purpose Branch
110.260	Off-Site Records
110.265	Servicing of Accounts by Contract
110.270	Revocation or Suspension of License
110.280	Gross Monthly Income Verification Documentation
110.290	Consumer Reporting Service

SUBPART B: TITLE-SECURED LENDING

Section	
110.300	Definitions
110.310	Applicability of Rule
110.320	Application for License
110.330	Renewal of License
110.340	Simple Interest and Replacement
110.350	Release of Lien
110.360	Availability of Debt Management Services
110.370	Lending Limits and Refinancing
110.380	Second Notice
110.390	Possession of Vehicle
110.400	Loan Proceeds
110.410	Security Interest
110.420	Approved Database
110.430	Gross Monthly Income Verification

SUBPART C: MORTGAGE LENDING

Section	
110.500	Definitions (Repealed)
110.505	Applicability of Rule (Repealed)
110.510	Good Faith Requirements (Repealed)
110.515	Fraudulent or Deceptive Practices (Repealed)
110.520	Prohibited Refinances (Repealed)
110.525	Negative Amortization (Repealed)
110.530	Negative Equity (Repealed)
110.535	Balloon Payments (Repealed)
110.540	Financing of Certain Points and Fees (Repealed)
110.545	Financing of Single Premium Insurance Products (Repealed)

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110.550	Lending Without Due Regard to Ability to Repay (Repealed)
110.555	Verification of Ability to Repay (Repealed)
110.560	Payments to Contractors (Repealed)
110.565	Counseling Prior to Perfecting Foreclosure (Repealed)
110.570	Mortgage Awareness Program (Repealed)
110.575	Offer of Mortgage Awareness Program (Repealed)
110.580	Third Party Review (Repealed)
110.APPENDIX A	Estimated Monthly Income and Expenses Worksheet (Repealed)
110.APPENDIX B	Mortgage Ratio Worksheet (Repealed)
110.TABLE A	Illinois Rule of 78 Fractions for Rebating Charges According to Number of Months Originally Contracted For and Number of Months Prepaid in Full for Contracts of 2 to 120 Months (Repealed)
110.TABLE B	Rule of 78 Percentage Rebate Table (Repealed)

AUTHORITY: Implementing and authorized by Section 22 of the Consumer Installment Loan Act [205 ILCS 670/22].

SOURCE: Filed and effective June 19, 1970; amended at 3 Ill. Reg. 24, p. 16, effective June 15, 1979; emergency amendment at 4 Ill. Reg. 5, p. 372, effective January 16, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 36, p. 138, effective September 22, 1980; amended at 5 Ill. Reg. 1352, effective February 3, 1981; codified at 7 Ill. Reg. 11721; amended at 9 Ill. Reg. 1343, effective January 17, 1985; amended at 11 Ill. Reg. 2749, effective January 28, 1987; emergency amendment at 11 Ill. Reg. 14141, effective August 7, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 10456, effective June 7, 1988; amended at 19 Ill. Reg. 44, effective December 22, 1994; amended at 20 Ill. Reg. 5799, effective April 8, 1996; emergency amendment at 22 Ill. Reg. 1485, effective January 2, 1998, for a maximum of 150 days; emergency expired May 31, 1998; amended at 22 Ill. Reg. 13657, effective July 14, 1998; amended at 25 Ill. Reg. 6227, effective May 17, 2001; amended at 25 Ill. Reg. 7456, effective August 1, 2001; expedited correction at 29 Ill. Reg. 5776, effective August 1, 2001; amended at 26 Ill. Reg. 14232, effective October 1, 2002; amended at 30 Ill. Reg. 12558, effective July 7, 2006; amended at 33 Ill. Reg. 4142, effective April 1, 2009; amended at 35 Ill. Reg. 7319, effective April 21, 2011; amended at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 110.10 Minimum Requirements for Office Records

- a) Every licensee shall keep the following records at the licensed location in any

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medium or format that accurately reproduces original documents or papers:

- 1) Loan register.
 - 2) Individual account records, including transaction histories of obligors.
 - 3) File of all original papers.
 - 4) Cash book.
 - 5) Alphabetical record of all co-makers, obligors or sureties.
 - 6) Permanent file.
- b) Records for loans made under the Act shall be kept separate or readily identifiable from other types of business conducted in the office.
- c) Electronic data processing, combination forms and special office systems may be used if in accordance with standard accounting procedures and if they contain the information enumerated in subsection (a).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 110.60 Alphabetical Record of Co-Makers, Obligors or Guarantors

The alphabetical record shall show the account number and the name of each co-maker, obligor, or guarantor who is currently indebted to the licensee, together with sufficient information to locate the account record. A licensee may maintain these files in any medium or format that accurately reproduces original documents or papers.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 110.236 Name Change

Whenever the licensee desires to amend the name of the licensed business, the licensee shall submit to the Division, within 15 days after amending the name, the following:

- a) ~~\$300 amended name change fee.~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

ab) Amended Articles of Incorporation, if the licensee is a corporation.

be) Amended organization papers, if the licensee is an entity other than a corporation.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Currency Exchange Act
- 2) Code Citation: 38 Ill. Adm. Code 120
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
120.10	Amendment
120.20	Amendment
120.30	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 19 of the Currency Exchange Act [205 ILCS 405].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is amending the Sections listed above under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to date; use plain language where appropriate; provide continuity across the balance of our Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

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

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not applicable
 - B) Reporting, bookkeeping or other procedures required for compliance: Please review the proposed amendments to this Part.
 - C) Types of professional skills necessary for compliance: Administrative/clerical
- 14) Regulatory Agenda on which this rulemaking was summarized: These amendments were not included on either of the 2 most recent agendas because: IDFPR could not have anticipated the signing of Executive Order 2016-13, issued by Governor Rauner on October 17, 2016.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 120

CURRENCY EXCHANGE ACT

Section	
120.5	Definitions
120.10	Minimum Requirements for Office Records – Community Currency Exchanges
120.20	Minimum Requirements for Office Records – Ambulatory Currency Exchanges
120.30	Cash Sheet
120.40	Check Register
120.50	Money Order Register
120.60	Money Orders
120.70	Checks Written by Exchange
120.80	"NSF" Checks and Items for Collection
120.90	Returned Items Record
120.100	Postdated Checks (Repealed)
120.110	Timely Deposits
120.120	Food Stamps Account (Repealed)
120.125	Supplemental Nutrition Assistance Program
120.130	Reconciling Accounts
120.140	Reference Material
120.150	Annual Report Information
120.160	Retention of Records
120.170	Physical Condition of Exchange Premises (Repealed)
120.180	Display of Fee Schedules
120.190	Continuity of Operations
120.200	Out-of-Town Trips
120.210	Bribery and Gratuities
120.220	Conviction of Crime
120.230	Ambulatory License Application
120.240	Ambulatory Office Records
120.250	Sale of Capital Stock
120.260	Corporate Officers and Directors
120.270	Fines, Suspension, or Revocation of License
120.280	Cease and Desist
120.290	Hearing Procedures

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing and authorized by Section 19 of the Currency Exchange Act [205 ILCS 405].

SOURCE: Filed August 15, 1973; amended at 2 Ill. Reg. 5, p. 1, effective February 9, 1978; old rules repealed, new rules adopted at 3 Ill. Reg. 26, p. 167, effective June 30, 1979; emergency amendment at 5 Ill. Reg. 264, effective December 19, 1980, for a maximum of 150 days; codified at 7 Ill. Reg. 11724; amended at 9 Ill. Reg. 1358, effective January 17, 1985; amended at 36 Ill. Reg. 13851, effective September 7, 2012; amended at 40 Ill. Reg. 9167, effective August 1, 2016; amended at 41 Ill. Reg. _____, effective _____.

Section 120.10 Minimum Requirements for Office Records – Community Currency Exchanges

Every licensed location must maintain the following records [in any medium or format that accurately reproduces original documents or papers](#):

- a) Daily cash sheets (see Section 120.30) must be maintained on premises for 90 days after the date of the daily cash sheet.
- b) Bank statements.
- c) Money order register (see Section 120.50) or carbonized copy of money order stating original issue amount.
- d) General ledger and supporting journals.
- e) Copy of the latest Annual Report filed with the Department.
- f) Transmittal record for utility bills, vehicle licenses, certificates of title, vehicle stickers, stored value cards, and any other type of transmittal made for the benefit of a third party.
- g) Record of daily transactions.
- h) Check register (see Section 120.40).
- i) Corporate records.
- j) Copies of all contracts and business agreements entered into by the currency

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exchange.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 120.20 Minimum Requirements for Office Records – Ambulatory Currency Exchanges

Every licensed location must maintain the following records in any medium or format that accurately reproduces original documents or papers:

- a) Bank statements and itemized deposit slips.
- b) Money order register or carbonized copy of money order.
- c) General ledger and support journals.
- d) Copy of the latest Annual Report filed with the Department.
- e) All corporate records.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 120.30 Cash Sheet

- a) A cash sheet must be prepared daily for each day's business reflecting all transactions for that day. A fiscal day may be used. All items on the cash sheet must be balanced at the end of the day or prior to the opening of the next days business. The cash sheet may be maintained by the licensee in any medium or format that accurately reproduces original documents or papers.
- b) The closing cash count must include all cash and cash items. Cash items include postage stamps, tokens and stamped envelopes sold in the currency exchange.
- c) The beginning and ending number of money orders issued each day must be recorded on the cash sheet.
- d) Returned checks must not be counted as part of the cash on hand.
- e) Payment for utility bills and all other company bills must be remitted to the

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respective utility or other company by the currency exchange before the end of the next business day.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Financial Institutions Code
- 2) Code Citation: 38 Ill. Adm. Code 200
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
200.412	Amendment
200.430	Amendment
- 4) Statutory Authority: Implementing and authorized by the Financial Institutions Code [20 ILCS 1205/1].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is amending the Sections listed above under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to date; use plain language where appropriate; provide continuity across the balance of our Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

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

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not applicable
 - B) Reporting, bookkeeping or other procedures required for compliance: Please review the proposed amendments to this Part.
 - C) Types of professional skills necessary for compliance: Administrative/clerical
- 14) Regulatory Agenda on which this rulemaking was summarized: These amendments were not included on either of the 2 most recent agendas because: IDFPR could not have anticipated the signing of Executive Order 2016-13, issued by Governor Rauner on October 17, 2016.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL
REGULATION~~INSTITUTIONS~~

PART 200

FINANCIAL INSTITUTIONS CODE

SUBPART A: DEFINITIONS

Section

200.100 Definition of Terms Used in this Part

SUBPART B: RULES OF GENERAL APPLICATION

Section

200.200 Applicability
200.202 Notice of Summary Action
200.205 Notification of Noncompliance or Material Change
200.210 Display of Certificates or Registrations
200.215 Prohibition on Filing Application
200.220 Computation of Time
200.221 Requirements as to Proper Form
200.225 Place of Filing
200.230 Additional Information
200.235 Additional Exhibits
200.240 Information Unknown or Not Reasonably Available
200.245 Requirements as to Paper, Printing and Language
200.250 Number of Copies – Signatures
200.270 Extension of Date for Filing
200.280 Non-Public Distribution of Information
200.290 Provisions for Granting of Variance from Rules

SUBPART C: NON-BINDING STATEMENTS AND DECLARATORY RULINGS

Section

200.310 Request for Non-Binding Statements
200.320 Request for Declaratory Rulings

SUBPART D: PROCEDURES FOR ADMINISTRATIVE HEARINGS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section	
200.400	Preamble
200.402	Qualifications and Duties of the Administrative Law Judge
200.404	Notice of Hearing
200.406	Institution of a Contested Case by the Department
200.408	Requirement to File an Answer
200.410	Amendment or Withdrawal of the Notice of Hearing
200.412	Representation
200.414	Special Appearance
200.416	Substitution of Parties
200.418	Failure to Appear
200.420	Motions
200.422	Requirements Relating to Continuances
200.424	Rules of Evidence
200.425	Standard of Proof
200.426	Form of Papers
200.428	Bill of Particulars
200.430	Discovery
200.432	Examination of Witnesses
200.434	Subpoenas
200.436	Pre-Hearing Conferences
200.438	Record of a Pre-Hearing Conference
200.440	Hearings
200.442	Record of Proceedings
200.444	Record of Hearing
200.446	Orders
200.448	Stipulations
200.450	Open Hearings
200.452	Corrections to the Transcript

AUTHORITY: Implementing and authorized by the Financial Institutions Code [20 ILCS 1205].

SOURCE: Adopted at 16 Ill. Reg. 12879, effective August 7, 1992; amended at 41 Ill. Reg. _____, effective _____.

SUBPART D: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section 200.412 Representation

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- a) Any individual may appear personally on his or her own behalf.
- b) A party may be represented by an attorney. The attorney shall be licensed in Illinois. Attorneys who appear in a representative capacity must file a written notice of appearance setting forth:
- 1) the name, business address and telephone number of the attorney;
 - 2) the name and address of the party represented; and
 - 3) an affirmative statement indicating that the attorney is licensed in Illinois.
- c) A corporation may be represented by an officer, upon presentation to the Department of a duly executed resolution of the Board of Directors, authorizing the officer to act in a representative capacity and setting forth the powers ~~that~~which the officer is authorized to exercise.
- d) A partnership may be represented by any general partner.
- e) Attorneys appearing before the Department shall conform their conduct to the Illinois Code of Professional Responsibility, effective ~~August 1, 1990~~ January 1, 2010. Any failure to behave in a manner ~~that~~which permits the efficient functioning of the hearing process shall authorize the Administrative Law Judge to take the following actions:
- 1) substitution of written argument in place of oral argument; or
 - 2) exclusion of an attorney from the proceeding for conduct that impedes an orderly determination of the rights of the parties.
- f) If any of the above actions are taken by the Administrative Law Judge, it shall be done as a matter of record, and the Administrative Law Judge shall state for the record the specific reasons ~~for the action~~therefor.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 200.430 Discovery

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- a) Discovery shall not be the subject of motions presented to the Administrative Law Judge, except as provided in Section 200.420 ~~of this Part~~.
- b) Upon written request served on the opposing party, any party shall be entitled to:
 - 1) the name, business and home addresses and telephone number, if available, of each witness who may be called to testify;
 - 2) copies of each document ~~that which~~ may be offered as evidence; and
 - 3) a description of any other evidence ~~that which~~ may be offered.
- c) The ~~above~~ information in subsection (b) will be provided within ~~ten (10)~~ days after service of a written request.
- d) Whether or not a request is made, during discovery a respondent shall be entitled to:
 - 1) any exculpatory evidence in the Department's possession. Exculpatory evidence is any evidence ~~that which~~ tends to support the respondent's position or to call into question the credibility of a Department witness; and
 - 2) copies of any investigative report ~~that which~~ purports to be a memorandum of interview of the respondent.
- e) Upon a written request served on the respondent at any time after a Notice of Hearing is filed, or at any stage of the hearing, the respondent will be required to produce within ~~30 ten (10)~~ days after service of a written request nonprivileged documents, books, records or other evidence ~~that relates which relate~~ to the issues set forth in the Notice of Hearing.
- f) No file of a Department examiner, investigator or attorney shall be subject to discovery except as stated in subsection (d) ~~above~~ relating to exculpatory evidence and memoranda of interviews of a respondent.
- g) In accordance with Section 200.436 ~~of this Part~~, in large or complex cases, at the discretion of the Administrative Law Judge, a pre-hearing conference with the parties and the Administrative Law Judge may be scheduled in appropriate cases.

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Consistent with the expedited nature of administrative hearings, the Administrative Law Judge may, at the pre-hearing conference, establish the extent of, and schedule for, the production of relevant documents and other information, including the deposition of witnesses.

- h) Subject to constitutional privileges and to grants of confidentiality under the Act and the Illinois Freedom of Information Act [5 ILCS 140]~~(Ill. Rev. Stat. 1991, ch. 116, par. 201 et seq.)~~, a party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request or for the admission of genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished. The failure of a party to respond to a request within ~~ten (10)~~ days after service shall be deemed to be an admission of the truth of the fact or the genuineness of the documents~~thereof~~.
- i) These provisions shall be construed to impose a continuing obligation upon the parties to exchange new information as it becomes available.
- j) The Administrative Law Judge, upon application of any party to a proceeding in which there has been a failure to abide by the discovery provisions of this Section~~herein~~, is authorized to take the following actions:
 - 1) limitation of evidence;
 - 2) substitution of written argument in place of oral argument; and
 - 3) exclusion of an attorney from the proceeding for conduct that impeded an orderly determination of the rights of the parties.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Payday Loan Reform Act
- 2) Code Citation: 38 Ill. Adm. Code 210
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
210.10	Amendment
210.60	Amendment
- 4) Statutory Authority: Implementing and authorized by the Payday Loan Reform Act [815 ILCS 122].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is amending the Sections listed above under the “Cutting the Red Tape Initiative” to make certain that our regulatory standards are up to date; use plain language where appropriate; provide continuity across the balance of our Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule 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 rulemakings pending on this Part?
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

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

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not applicable
 - B) Reporting, bookkeeping or other procedures required for compliance: Please review the proposed amendments to this Part.
 - C) Types of professional skills necessary for compliance: Administrative/clerical
- 14) Regulatory Agenda on which this rulemaking was summarized: These amendments were not included on either of the 2 most recent agendas because: IDFPR could not have anticipated the signing of Executive Order 2016-13, issued by Governor Rauner on October 17, 2016.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 210

PAYDAY LOAN REFORM ACT

Section

210.1	Definitions
210.10	Minimum Requirements for Office Records
210.15	Application for Payday Lender License; Controlling Person
210.16	Dual Licensure Limitation
210.20	Loan Register
210.30	Individual Account Records
210.40	File of Original Papers
210.50	Cash Book
210.60	Alphabetical Record of Co-Makers, Consumers or Guarantors
210.65	Permanent File
210.70	Payments and Refunds
210.72	Loan Terms
210.75	Installment Payday Loans
210.80	Cancellation and Return of Documents
210.90	Hypothecation at the Time of the Sale of Consumer's Loan Agreement
210.100	Legal Forms
210.110	Judgments
210.120	Trouble File
210.130	Office and Office Hours
210.140	Advertising
210.150	Other Business
210.160	Examination Remittances
210.170	General
210.180	Relocation
210.190	Name Change
210.200	Hearing Procedures
210.210	Off-Site Records
210.220	Servicing of Accounts by Contract
210.230	Revocation or Suspension of License
210.240	Consumer Written Verification of Compliance with Act
210.250	Gross Monthly Income Verification
210.260	Certified Database/Commercially Reasonable Method of Verification

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

210.270 Violation of Federal Law – Section 670 of the John Warner National Defense Authorization Act

AUTHORITY: Implementing and authorized by the Payday Loan Reform Act [815 ILCS 122].

SOURCE: Adopted at 29 Ill. Reg. 21008, effective December 16, 2005; amended at 35 Ill. Reg. 7343, effective April 21, 2011; amended at 37 Ill. Reg. 216, effective February 19, 2013; amended at 41 Ill. Reg. _____, effective _____.

Section 210.10 Minimum Requirements for Office Records

- a) Every licensee shall keep the following records at the licensed location in any medium or format that accurately reproduces original documents or papers:
- 1) Loan register.
 - 2) Individual account records, including transaction histories of consumers.
 - 3) File of all original papers.
 - 4) Cash book.
 - 5) Alphabetical record of all co-makers, consumers or sureties.
 - 6) Permanent file.
 - 7) Information required by Section 2-55 of the Act.
- b) Records for loans made under the Act shall be kept separate or readily identifiable from other types of business conducted in the office, if allowed.
- c) Electronic data processing, combination forms and special office systems may be used if in accordance with standard accounting procedures and if they contain the information enumerated in subsection (a).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 210.60 Alphabetical Record of Co-Makers, Consumers or Guarantors

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The alphabetical record shall show the account number and the name of each co-maker, consumer or guarantor who is currently indebted to the licensee, together with sufficient information to locate the account record. [A licensee may maintain these files in any medium or format that accurately reproduces original documents or papers.](#)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Savings Bank Act
- 2) Code Citation: 38 Ill. Adm. Code 1075
- 3) Section Number: 1075.130 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the Savings Bank Act [205 ILCS 205].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is amending the Section listed above under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to date; use plain language where appropriate; provide continuity across the balance of our Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None
- 7) Will this rulemaking replace any emergency rule 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 rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation:</u>
1075.140	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3000	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3100	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3150	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3200	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3225	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3250	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3300	Repealed	41 Ill. Reg. 4899; May 12, 2017

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

1075.3325	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3350	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3400	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3450	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3500	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3550	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3600	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3650	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3700	Repealed	41 Ill. Reg. 4899; May 12, 2017
1075.3750	Repealed	41 Ill. Reg. 4899; May 12, 2017

- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

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Attention: Craig Cellini
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217/785-0813
fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not applicable
- B) Reporting, bookkeeping or other procedures required for compliance: Please review the proposed amendment to this Part.
- C) Types of professional skills necessary for compliance: Administrative

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

- 14) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included on either of the 2 most recent agendas because: IDFPR could not have anticipated the signing of Executive Order 2016-13, issued by Governor Rauner on October 17, 2016.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 1075

SAVINGS BANK ACT

SUBPART A: FILINGS

Section

- 1075.100 Filings
- 1075.110 Conditions
- 1075.120 Examination Fees
- 1075.130 ~~Regulatory~~Supervisory Fees
- 1075.140 Adjusted Supervisory Fees
- 1075.141 Special Credit (Repealed)
- 1075.150 Withdrawal of Application or Other Filings

SUBPART B: DEFINITIONS

Section

- 1075.200 Definitions

SUBPART C: REPORTS

Section

- 1075.300 Contracts
- 1075.310 Financial Reports

SUBPART D: OPERATIONS

Section

- 1075.400 Capital Stock (Repealed)
- 1075.410 Minimum Capital Requirement
- 1075.415 Conflicting Federal Powers, Law and Regulations
- 1075.420 Advertising
- 1075.430 Maintenance of Records
- 1075.440 Business Plan
- 1075.450 Excess Insurance
- 1075.455 Vacancies in the Board of Directors

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- 1075.2165 Conversion Incident to Acquisition by Savings Bank Holding Company or Merger or Consolidation with Savings Bank Holding Company Subsidiary – Restriction on Sale of Shares of Stock by Directors and Officers
- 1075.2170 Sale of Control in Connection with the Conversion of a Mutual Savings Bank to Capital Stock Savings Bank – Undercapitalized Mutual Savings Bank
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1075.2540	Offering Circular – Additional Current Information Required
1075.2550	Offering Circular – Statement Required in Offering Circulars
1075.2560	Offering Circular – Preliminary Offering Circular
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1075.3100	Ability to Repay
1075.3150	Verification of Ability to Pay Loan
1075.3200	Fraudulent or Deceptive Practices
1075.3225	Prepayment Penalty
1075.3250	Pre-paid Insurance Products and Warranties
1075.3300	Refinancing Prohibited in Certain Cases
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1075.3350	Financing of Certain Points and Fees
1075.3400	Payments to Contractors
1075.3450	Negative Amortization
1075.3500	Negative Equity
1075.3550	Counseling Prior to Perfecting Foreclosure Proceedings
1075.3600	Mortgage Awareness Program
1075.3650	Report of Default and Foreclosure Rates on Conventional Loans
1075.3700	Director's Review and Analysis
1075.3750	Third Party Review of High Risk Home Loans

SUBPART Q: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATION

Section	
1075.4010	Definitions

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1075.4020	Purpose and Scope
1075.4030	Requests for Confidential Supervisory Information
1075.4040	Where to Submit a Request
1075.4050	Consideration of Requests
1075.4060	Disclosure of Confidential Supervisory Information
1075.4070	Retrieval and Destruction of Previously Disclosed Confidential Supervisory Information Used in Litigation
1075.4080	Fees for Services

SUBPART R: PAYDAY LOANS

Section

1075.5000	Purpose and Scope
1075.5010	Definitions
1075.5020	Applicability of Rule
1075.5030	Issuance of Payday Loans by Savings Banks

1075.APPENDIX A Estimated Monthly Income and Expenses Worksheet

1075.APPENDIX B Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by the Savings Bank Act [205 ILCS 205].

SOURCE: Emergency Rules adopted at 14 Ill. Reg. 15029, effective September 4, 1990, for a maximum of 150 days; adopted at 15 Ill. Reg. 1916, effective January 25, 1991; amended at 16 Ill. Reg. 4891, effective March 16, 1992; amended at 17 Ill. Reg. 8894, effective June 7, 1993; expedited correction at 17 Ill. Reg. 18223, effective June 7, 1993; emergency amendment adopted at 18 Ill. Reg. 7016, effective April 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15094, effective September 26, 1994; emergency amendment at 19 Ill. Reg. 10277, effective June 29, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15474, effective October 31, 1995; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6719, effective March 30, 1998; amended at 24 Ill. Reg. 73, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 6986, effective April 24, 2000, for a maximum of 150 days; emergency expired on September 20, 2000; amended at 24 Ill. Reg. 15026, effective September 26, 2000; emergency amendment at 24 Ill. Reg. 19331, effective December 15, 2000, for a maximum of 150 days; emergency amendment repealed at 25 Ill. Reg. 3698, effective January 30, 2001, in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1858; amended at 25 Ill. Reg. 6197, effective May 17, 2001; amended at 26 Ill. Reg. 13483, effective September 13, 2002; emergency amendment at 27 Ill.

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Reg. 16043, effective September 29, 2003, for a maximum of 150 days; emergency amendments suspended at 27 Ill. Reg. 18485, effective November 18, 2003; emergency suspension withdrawn at 28 Ill. Reg. 409, effective December 16, 2003; emergency repealed at 28 Ill. Reg. 427, effective December 16, 2003, in response to the objection and suspension of the Joint Committee on Administrative Rules; amended at 28 Ill. Reg. 807, effective December 29, 2003; amended at 28 Ill. Reg. 7285, effective May 7, 2004; amended at 30 Ill. Reg. 19068, effective December 1, 2006; amended at 41 Ill. Reg. _____, effective _____.

SUBPART A: FILINGS

Section 1075.130 Regulatory Supervisory Fees

- a) ~~Each savings bank shall pay fees as set forth in Section 9002.5(a) of the Act. The Director shall receive, and there shall be paid to the Director by each savings bank and each service corporation operating under the Act, a fixed fee of \$600, plus a variable fee based on the total assets of each savings bank and each service corporation as shown on the financial report filed with the Director for the reporting period of the prior calendar year ended December 31, 1999 and every year thereafter according to the following schedule:~~

~~28.82¢ per \$1,000 of the first \$2,000,000 of total assets,~~

~~26.2¢ per \$1,000 of the next \$3,000,000 of total assets,~~

~~23.58¢ per \$1,000 of the next \$5,000,000 of total assets,~~

~~19.65¢ per \$1,000 of the next \$15,000,000 of total assets,~~

~~17.03¢ per \$1,000 of the next \$25,000,000 of total assets,~~

~~14.41¢ per \$1,000 of the next \$50,000,000 of total assets,~~

~~11.79¢ per \$1,000 of the next \$400,000,000 of total assets,~~

~~7.86¢ per \$1,000 of the next \$500,000,000 of total assets, and~~

~~5.24¢ per \$1,000 of all total assets in excess of \$1,000,000,000 of such savings bank or service corporation.~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- b) When service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of ~~the~~this fee under subsection (a). ~~If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle (Mortgage Backed Securities, Real Estate Mortgage Income Certificates, and other securitized debt instruments), the Director shall waive that portion of the fee attributed to the finance subsidiary.~~
- ~~c~~b) Each savings bank shall pay fees as set forth in Section 9002.5(c) of the Act. ~~to the Department a fee of \$600 for each approved branch office or facility office established under Subpart G of this Part. The determination of such fees shall be made annually as of the close of business of the prior calendar year ended December 31.~~
- e) ~~One fourth of the sum of the supervisory fee so determined shall be remitted as billed by the Director. Such fees shall be for the respective current year. Fees payable for the third and fourth calendar quarters of 2003 shall be recalculated using total assets as of December 31, 2002, and the amended fees provided in subsections (a) and (b) of this Section. One fourth of the sum of the supervisory fee determined based on the amended fee schedule shall be remitted as billed for the third and fourth calendar quarters of 2003.~~
- d) ~~The~~Subject to the requirements of subsection (e) of this Section for the third and fourth quarters of 2003, supervisory fees shall be determined by the Director following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any ~~such~~ fees billed at a later date.
- e) In the event the savings bank~~state~~ charter is converted, taken into possession under the Act, or ~~otherwise~~ surrendered during the year, the Director shall pro rate ~~determine the~~ regulatory~~supervisory~~ fee based on the total assets of the savings bank as of the month-end immediately preceding the cancellation of the state charter, except that the measurement date may be another date at the discretion of the Director in the event a savings bank elects to liquidate. In determining whether to set another measurement date, the Director shall consider the following elements: whether the savings bank is undergoing a planned liquidation (where a savings bank elects to not continue operations), or, the savings bank has transferred significant assets (more than .5% of the total assets at the previous measurement date).

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

- f) ~~The Director may waive part of the first annual supervisory fee specified under subsection (a), for a savings and loan association that has paid the fee for conversion to federal charter as required under the rules promulgated pursuant to the Illinois Savings and Loan Act of 1985 (38 Ill. Adm. Code 400.110(b)). Such waiver, if any is granted, shall be in accordance with the following schedule:~~
- 1) ~~for conversions that were completed less than twelve months but greater than six months before the issuance of a savings bank charter, 25% may be waived; and~~
 - 2) ~~for conversions that were completed less than six months before the issuance of a savings bank charter, 50% may be waived.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Title Insurance Act
- 2) Code Citation: 50 Ill. Adm. Code 8100
- 3) Section Number: 8100.145 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the Title Insurance Act [215 ILCS 155].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is amending the Section listed above under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to date; use plain language where appropriate; provide continuity across the balance of our Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None
- 7) Will this rulemaking replace any emergency rule 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 rulemakings pending on this Part?
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786

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

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not applicable
 - B) Reporting, bookkeeping or other procedures required for compliance: Please review the proposed amendment to this Part.
 - C) Types of professional skills necessary for compliance: Administrative/clerical
- 14) Regulatory Agenda on which this rulemaking was summarized: These amendments were not included on either of the 2 most recent agendas because: IDFPR could not have anticipated the signing of Executive Order 2016-13, issued by Governor Rauner on October 17, 2016.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE

CHAPTER V: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 8100

TITLE INSURANCE ACT

SUBPART A: RULES OF GENERAL APPLICATION

Section

8100.100	Notice of Suspension or Revocation
8100.105	Notification of Noncompliance or Material Change
8100.110	Display of Certificates or Registrations
8100.114	Certification
8100.115	Prohibition on Filing Application
8100.120	Computation of Time
8100.121	Requirements as to Proper Form
8100.125	Place of Filing
8100.130	Additional Information
8100.135	Additional Exhibits
8100.140	Information Unknown or Not Reasonably Available
8100.145	Requirements as to Paper, Printing and Language
8100.150	Number of Copies--Signatures
8100.155	Examination Fees
8100.170	Extension of Date for Filing
8100.190	Provisions for Granting of Variance from Rules

SUBPART B: DEFINITIONS

Section

8100.200	Definition of terms Used in this Part
8100.205	Definition of the term "Domestic Title Insurance Company" as Used in the Act
8100.210	Definition of the term "Application" as Used in Sections 4.(d) and 8.(b) of the Act
8100.215	Definition of the term "Audit" as Used in Section 12.(b) of the Act
8100.220	Definition of the term "Bonds of the United States" as Used in Section 4.(a) of the Act
8100.225	Definition of the term "Bonds ... of Any Body Politic of This State" as Used in Section 4.(a) of the Act
8100.230	Definition of the term "Bonds ... of This State" as Used in Section 4.(a) of the Act
8100.235	Definition of the term "Qualified to Do Business in This State" as Used in Section

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- 4.(a) of the Act
- 8100.240 Definition of the term "Title Plant" as Used in Section 7.(b) of the Act
- 8100.245 Definition of the term "Net Retained Liability" as Used in Sections 8.(a) and 11.(c)(2) of the Act
- 8100.250 Definition of the term "Capital" as Used in Section 9.(a) of the Act
- 8100.255 Definition of the term "Notice" as Used in Section 9.(b) of the Act
- 8100.260 Definition of the term "Alien Title Insurance Company" as Used in Section 11.(b) of the Act
- 8100.265 Definition of the term "Foreign Title Insurance Company" as Used in Section 11.(b) and 15 of the Act
- 8100.270 Definition of the term "Like Purposes" as Used in Section 15 of the Act
- 8100.275 Definition of the term "Party" as Used in Section 23 of the Act
- 8100.280 Definition of the term "Person" as Used in Section 24 of the Act

SUBPART C: TITLE INSURANCE COMPANIES

- Section
- 8100.400 Bonds and Securities Acceptable for Deposit
- 8100.401 Place of Deposit
- 8100.402 Computation of Amount on Deposit
- 8100.403 Exchange of Bonds on Deposit
- 8100.900 Impairment
- 8100.905 Definition of the Term "Statutory Liabilities" as Used in This Subpart
- 8100.1000 Date of Redetermination of Required Reserves
- 8100.1005 Records of Required Reserves
- 8100.1100 Records of Statutory Premium Reserve
- 8100.1200 Consumer Complaints
- 8100.1300 Report of Condition
- 8100.1500 Due Date for Filing Report
- 8100.1505 Due Date for Deposits and Payments
- 8100.1510 Review of Reports
- 8100.1515 Due Date for Delinquency Assessment

SUBPART D: TITLE INSURANCE AGENTS

- Section
- 8100.1600 Registration of Title Insurance Agents

SUBPART E: INDEPENDENT ESCROWEES

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

Section

8100.1700	Bonds and Securities Acceptable for Deposit
8100.1701	Place of Deposit
8100.1702	Computation of Amount on Deposit
8100.1703	Exchange of Bonds on Deposit
8100.1704	Starker Exchange
8100.1705	Independent Accountant
8100.1706	Notice of Judgments
8100.1708	Maintenance of Books
8100.1710	Annual Report
8100.1712	Due Date for Filing of Annual Report
8100.1714	Confirmation of Escrow Fund and Liability
8100.1716	Basis of Books
8100.1718	Posting Dates
8100.1720	Escrow Books
8100.1722	General Books
8100.1724	Special Accounts
8100.1726	Records to be Preserved
8100.1728	Withdrawals From Special Accounts
8100.1730	Debit Balances Prohibited
8100.1732	Delivery of Documents or Property
8100.1734	Dated Instructions
8100.1738	Printed Instructions
8100.1740	Withdrawal of Escrow Fees
8100.1742	Notice of Interest
8100.1744	Transfers Between Escrows
8100.1746	Escrow Receipts
8100.1748	Drawing of Checks
8100.1750	Statement of Account

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section

8100.2010	Request for Non-Binding Statements
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SUBPART H: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

8100.2100	Preamble
8100.2102	Qualifications and Duties of the Hearing Officer
8100.2104	Notice of Hearing
8100.2106	Institution of a Contested Case by the Division
8100.2108	Requirement to File an Answer
8100.2110	Amendment or Withdrawal of the Notice of Hearing
8100.2112	Representation
8100.2114	Special Appearance
8100.2116	Substitution of Parties
8100.2118	Failure to Appear
8100.2120	Motions
8100.2122	Requirements Relating to Continuances
8100.2124	Rules of Evidence
8100.2126	Form of Papers
8100.2128	Bill of Particulars
8100.2130	Discovery
8100.2132	Examination of Witnesses
8100.2134	Subpoenas
8100.2136	Pre-Hearing Conferences
8100.2138	Record of a Pre-Hearing Conference
8100.2140	Hearings
8100.2142	Record of Proceedings
8100.2144	Record of Hearing
8100.2146	Orders
8100.2148	Stipulations
8100.2150	Open Hearings
8100.2152	Corrections to the Transcript
8100.2160	Disputes Between Parties Certified or Registered by the Division

SUBPART I: CONSUMER PROTECTION

Section	
8100.2400	Preamble (Repealed)
8100.2402	Standards of Conduct
8100.2405	Definition of the term "Thing of Value" as Used in This Subpart
8100.2406	Borrower's Right to Cancel

SUBPART J: PUBLIC INFORMATION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

Section
8100.3000 Non-Public Distribution of Information

AUTHORITY: Implementing and authorized by the Title Insurance Act [215 ILCS 155].

SOURCE: Emergency rules adopted at 14 Ill. Reg. 305, effective January 1, 1990, for a maximum of 150 days; adopted at 14 Ill. Reg. 8600, effective May 21, 1990; amended at 26 Ill. Reg. 14265, effective October 1, 2002; amended at 34 Ill. Reg. 852, effective December 29, 2009; amended at 35 Ill. Reg. 12354, effective July 22, 2011; amended at 41 Ill. Reg. _____, effective _____.

SUBPART A: RULES OF GENERAL APPLICATION

Section 8100.145 Requirements as to Paper, Printing and Language

- a) Application shall be filed on good quality, unglazed, white paper, 8½ by 11 inches in size, insofar as practicable. However, tables, charts, maps and financial statements may be on larger paper, if folded to that size, and the prospectus may be on smaller paper, if the registrant so desires, but not less than 7½ by 9 inches in size. [Applications may be submitted electronically and shall be filed in a format reasonably similar to the format described in this subsection.](#)
- b) The application and, insofar as practicable, all papers and documents filed as a part of the application, shall be printed or typewritten. However, the application or any portion may be prepared by any similar process that, in the opinion of the Division, produces copies suitable for permanent record. Irrespective of the process used, all copies of the material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.
- c) The application shall be in the English language. If any exhibit or other paper or document filed with the application is in a foreign language, it shall be accompanied by a translation into the English language.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Sex Offender Evaluation and Treatment Provider Act
- 2) Code Citation: 68 Ill. Adm. Code 1280
- 3) Section Number: 1280.50 Proposed Action: Amendment
- 4) Statutory Authority: Implementing the Sex Offender Evaluation and Treatment Provider Act [225 ILCS 109] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment will allow an applicant for an Associate Sex Offender Treatment Provider license to meet the education requirements of the Act and will eliminate arbitrary and burdensome requirements. The current education requirements of Section 1280.50 create barriers to licensure and have resulted in numerous variances that delay the licensure process. This rulemaking will allow educational credentials to be reviewed in a uniform and consistent manner.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking has no impact on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice.

Department of Financial and Professional Regulation
Attention: Craig Cellini

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

320 West Washington, 3rd Floor
Springfield IL 62786

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

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Sex offender evaluators and sex offender treatment providers and now associate sex offender treatment providers regulated under the Act may be affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Experience in the evaluation and/or treatment of sex offenders is required for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2017

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1280

SEX OFFENDER EVALUATION AND TREATMENT PROVIDER ACT

Section

1280.10	Application for Licensure as a Sex Offender Evaluator
1280.20	Experience Defined Sex Offender Evaluator
1280.30	Application for Licensure as a Sex Offender Treatment Provider
1280.40	Experience Defined Sex Offender Treatment Provider
1280.50	Application for Licensure as an Associate Sex Offender Provider
1280.60	Supervision of Associate Sex Offender Providers
1280.70	Renewal
1280.80	Restoration
1280.90	Inactive Status
1280.100	Fees
1280.110	Unethical, Unauthorized or Unprofessional Conduct
1280.120	Continuing Education
1280.130	Granting Variances

AUTHORITY: Implementing the Sex Offender Evaluation and Treatment Provider Act [225 ILCS 109] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Old Part repealed at 13 Ill. Reg. 513, effective December 29, 1988; new Part adopted at 37 Ill. Reg. 19582, effective November 22, 2013; amended at 41 Ill. Reg. _____, effective _____.

Section 1280.50 Application for Licensure as an Associate Sex Offender Provider

- a) A person is qualified for licensure as an associate sex offender provider if that person:
 - 1) has applied in writing on forms prepared and furnished by the Department;
 - 2) has not engaged or is not engaged in any practice or conduct that would be grounds for disciplining a licensee under Section 75 of the Act;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- 3) has demonstrated compliance with the educational requirement as set forth in Section 35(c) of the Act and Section 1280.50(b); and
 - 4) has paid the required fee set forth in Section 1280.100.
- b) ~~Applicants Pursuant to Section 35(e) of the Act, the applicant~~ must provide evidence that the person holds a master's degree or higher from a program at a college, university or school that is a regionally accredited institution and recognized by the U.S. Department of Education in one of the following subjects: in social work, psychology, marriage and family therapy, counseling or a closely related behavioral science, or psychiatry.
- 1) social work;
 - 2) psychology;
 - 3) marriage and family therapy;
 - 4) counseling; or
 - 5) psychiatry.
- c) Master's degrees or higher in a closely related behavioral or mental health science may be approved by the Department if the educational content is equivalent to the content of the degrees listed in subsection (b).
- ~~d)~~e) The Division, upon recommendation of the Board, has determined that issuance of a license in this State as one of the entities listed in this subsection (d) either of the following shall be evidence of completion of an acceptable educational program. For the purposes of this Section, the license does not need to be active at the time of application.
- 1) A physician licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 or an equivalent license under the laws of another state;
 - 2) An advanced practice nurse with psychiatric specialty licensed under the Nurse Practice Act;

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- 3) A clinical psychologist licensed under the Clinical Psychologist Licensing Act;
 - 4) A licensed clinical social worker licensed under the Clinical Social Work and Social Work Practice Act;
 - 5) A licensed clinical professional counselor licensed under the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act; or
 - 6) A licensed marriage and family therapist licensed under the Marriage and Family Therapy Licensing Act.
- 1) ~~Completion of a master's degree or higher in social work, psychology, marriage and family therapy, counseling or a closely related behavioral science, or psychiatry from a program certified by one of the following:~~
 - A) ~~American Psychological Association;~~
 - B) ~~Council on Social Work Education;~~
 - C) ~~Council for Accreditation of Counseling and Related Educational Programs;~~
 - D) ~~Council on Rehabilitation Education;~~
 - E) ~~Commission on Accreditation for Marriage and Family Therapy Education;~~
 - F) ~~American Association of Medical Colleges; or~~
 - G) ~~American Nurses Credentialing Center; or~~
 - 2) ~~Issuance of a license in this State as one of the following. For the purposes of this Section, the license does not need to be active at the time of application:~~

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- A) ~~a physician licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 or an equivalent license under the laws of another state;~~
- B) ~~an advanced practice nurse with psychiatric specialty licensed under the Nurse Practice Act;~~
- C) ~~a clinical psychologist licensed under the Clinical Psychologist Licensing Act;~~
- D) ~~a licensed clinical social worker licensed under the Clinical Social Work and Social Work Practice Act;~~
- E) ~~a licensed clinical professional counselor licensed under the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act;~~
- F) ~~a licensed marriage and family therapist licensed under the Marriage and Family Therapy Licensing Act.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Long-Term Care Insurance
- 2) Code Citation: 50 Ill. Adm. Code 2012
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
2012.30	Amendment
2012.40	Amendment
2012.50	Amendment
2012.55	Amendment
2012.60	Amendment
2012.64	Amendment
2012.95	Amendment
2012.97	New Section
2012.110	Amendment
2012.112	Amendment
2012.113	New Section
2012.122	Amendment
2012.126	Amendment
2012.127	Amendment
2012.EXHIBIT A	Amendment
2012.EXHIBIT F	Amendment
2012.EXHIBIT J	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 351A-11 of the Illinois Insurance Code [215 ILCS 5/351A-11].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed revisions to 50 Ill. Adm. Code 2012 reflect changes that have been made by the National Association of Insurance Commissioners (NAIC) to the Long Term Care Model Regulation and a model bulletin adopted by the NAIC's Senior Issues Task Force. These changes include greater specification of the margin for adverse deviation that company actuaries should consider in initial rates; a new annual rate certification requirement which will help rate stability; additional information that companies should provide in the event of a rate increase request; specific language to allow rate increases less than the full amount that would be required for the actuary to certify that no future rate increases are anticipated under moderately adverse conditions if, in the opinion of the Director, it is in the best interest of policyholders; and some minor changes to the triggers for the contingent non-forfeiture benefit.

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The revisions contain no provision allowing for certification language that the requested premium rate schedule does not include adequate margins for moderately adverse conditions. The Department believes that such a certification option would weaken the principle of rate stabilization by lowering the bar for future rate increases in cases where the "certified" increase would be considered excessive by the 58/85 demonstration.

Additionally, the Model Bulletin adopted by the Senior Issues Task Force on August 9, 2013 contains numerous items that we intend to incorporate into this Part, in particular, those related to extending protections to pre-rate-stability policies and provisions to allow large rate increases to be implemented as a series of smaller rate increases.

Some revisions are also proposed by the Department of Insurance which are intended to improve the current regulation as well as to clarify that the future projected incurred claims used in the loss ratio compliance demonstration should be calculated on a best-estimate basis.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Anne Marie Skallerup
Deputy General Counsel
Illinois Department of Insurance

or

Susan Anders
Rules Coordinator
Illinois Department of Insurance

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

122 S. Michigan Ave, 19th Fl
Chicago IL 60603

320 W. Washington St.
Springfield IL 62767

312/814-5410
fax: 312/814-2862

217/558-0957

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None anticipated
 - B) Reporting, bookkeeping or other procedures required for compliance: Inclusion of actuarial certification with premium rate filing
 - C) Types of professional skills necessary for compliance: Actuarial
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2017

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCE

PART 2012

LONG-TERM CARE INSURANCE

Section	
2012.10	Purpose
2012.20	Applicability and Scope
2012.30	Definitions
2012.40	Policy Definitions
2012.50	Policy Practices and Provisions
2012.55	Unintentional Lapse
2012.60	Required Disclosure Provisions
2012.62	Required Disclosure of Rating Practices to Consumers
2012.64	Initial Filing Requirements
2012.65	Prohibition Against Post Claims Underwriting
2012.70	Minimum Standards for Home Health and Community Care Benefits in Long-Term Care Insurance Policies
2012.80	Requirement to Offer Inflation Protection
2012.83	Incontestability Period
2012.86	Nonforfeiture Benefits
2012.90	Requirements for Application Forms and Replacement Coverage
2012.95	Reporting Requirements
2012.97	Annual Rate Certification Requirements
2012.100	Filing Requirement
2012.110	Loss Ratio
2012.112	Premium Rate Schedule Increases
2012.113	Premium Rate Schedule Increases for Policies Subject to Loss Ratio Limits Related to Original Filings
2012.115	Filing Requirements for Advertising
2012.120	Reserve Standards
2012.121	Producer Training Requirements
2012.122	Standards for Marketing
2012.123	Suitability
2012.124	Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates
2012.125	Availability of New Services or Providers

DEPARTMENT OF INSURANCE

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2012.126	Right to Reduce Coverage and Lower Premiums
2012.127	Nonforfeiture Benefit Requirement
2012.128	Standards for Benefit Triggers
2012.129	Additional Standards for Benefit Triggers for Qualified Long-Term Care
2012.130	Standard Format Outline of Coverage Requirements
2012.140	Requirement to Deliver Shopper's Guide
2012.145	Long-Term Care Insurance Partnership Program
2012.150	Penalties
2012.EXHIBIT A	Replacement Notice for Other Than Direct Response Solicitations
2012.EXHIBIT B	Replacement Notice for Direct Response Solicitations
2012.EXHIBIT C	Standard Format Outline of Coverage
2012.EXHIBIT D	Rescission Reporting Format
2012.EXHIBIT E	Class of Insurance – Accident and Health (Repealed)
2012.EXHIBIT F	Long-Term Care Insurance Personal Worksheet
2012.EXHIBIT G	Things You Should Know Before You Buy Long-Term Care Insurance
2012.EXHIBIT H	Long-Term Care Insurance Suitability Letter
2012.EXHIBIT I	Claims Denial Reporting: Long-Term Care Insurance Form
2012.EXHIBIT J	Potential Rate Increase Disclosure
2012.EXHIBIT K	Replacement and Lapse Reporting Form
2012.EXHIBIT L	Long-Term Care Insurance Partnership Disclosure Notice
2012.EXHIBIT M	Long-Term Care Insurance Partnership Certification Form

AUTHORITY: Implementing and authorized by Section 351A-11 of the Illinois Insurance Code [215 ILCS 5/351A-11].

SOURCE: Adopted at 14 Ill. Reg. 10345, effective June 15, 1990; amended at 18 Ill. Reg. 2238, effective February 1, 1994; amended at 19 Ill. Reg. 2832, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 8403, effective June 13, 1995; emergency expired September 1, 1995; amended at 19 Ill. Reg. 14421, effective October 3, 1995; amended at 22 Ill. Reg. 2105, effective January 6, 1998; amended at 26 Ill. Reg. 8835, effective July 1, 2002; amended at 32 Ill. Reg. 7600, effective May 5, 2008; amended at 38 Ill. Reg. 2186, effective January 2, 2014; amended at 41 Ill. Reg. _____, effective _____.

Section 2012.30 Definitions

"Accelerated Long-Term Care Benefit" means a life insurance policy, contract, rider endorsement or amendment that contains benefits providing payment from life or endowment or annuity benefits in advance of the time they would

DEPARTMENT OF INSURANCE

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otherwise be payable at any time during the insured's lifetime as an indemnity for long-term care.

"*Applicant*", as defined in Section 351A-1 of the Illinois Insurance Code, *means*:

in the case of an individual long-term care insurance policy, the person who seeks to contract for benefits;

in the case of a group long-term care insurance policy, the proposed certificateholder.

"*Certificate*", as defined in Section 351A-1 of the Illinois Insurance Code, *means any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this State.*

"*Chronically Ill Individual*", for all long-term care policies that are marketed as "qualified" pursuant to the Internal Revenue Code of 1986, as amended (26 USC 7702B(c)(2)(A)), means any individual who has been certified by a licensed health care practitioner as:

being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity;⁵

having a level of disability similar (as determined under regulations prescribed by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in the preceding paragraph;⁵ or

requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

The term does not include any individual otherwise meeting the requirements of this definition unless within the preceding 12-month period a licensed health care practitioner has certified that the individual meets these requirements.

"Code" means the Illinois Insurance Code [215 ILCS 5].

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

DEPARTMENT OF INSURANCE

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"Exceptional Increase" means only those increases filed by an insurer as exceptional for which the Director determines the need for the premium rate increase is justified due to changes in laws or regulations applicable to long-term care coverage in this State, or to increased and unexpected utilization that affects the majority of insurers of similar products.

Except as provided in ~~Sections~~ Section 2012.112 and 2012.113, exceptional increases are subject to the same requirements as other premium rate schedule increases found in Section 2012.112 or 2012.113 ~~of this Part~~.

The Director may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase.

The Director, in determining that the necessary basis for exceptional increase exists, shall also determine any potential offsets to higher claims costs.

"Group Long-Term Care Insurance", as defined in Section 351A-1 of the Code [215 ILCS 5/351A-1], means a long-term care insurance policy which is delivered or issued for delivery in this State and issued to one of the following:

One or more employers or labor organizations, or to a trust or to the trustee(s) of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

Any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

has been maintained in good faith for purposes other than obtaining insurance.

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An association or a trust or the trustee(s) of a fund established, created or maintained for the benefit of members of one or more associations. Prior to advertising, marketing or offering such policy within this State, the association or associations, or the insurer of the association or associations, shall file evidence with the Director that the association or associations have at the outset a minimum of 100 members and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and by-laws which provide that:

the association or associations hold regular meetings not less than annually to further purposes of the members;

except for credit unions, the association or associations collect dues or solicit contributions from members; and

the members have voting privileges and representation on the governing board and committees.

Thirty days after such filing the association or associations will be deemed to satisfy such organizational requirements, unless the Director makes a finding that the association or associations do not satisfy those organizational requirements.

A group other than as described in subparagraphs under the definition of Group Long-Term Care Insurance, subject to a finding by the Director that:

the issuance of the group policy is not contrary to the best interest of the public;

the issuance of the group policy would result in economies of acquisition or administration; and

the benefits are reasonable in relation to the premiums charged.

"Incidental", as used in ~~Sections~~[Section 2012.112\(j\)](#) and [2012.113\(j\)](#), means that the value of the long-term care benefit provided is less than 10% of the total value of the benefits provided over the life of the policy. These values shall be

DEPARTMENT OF INSURANCE

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measured as of the date of issue.

"Insurer" includes insurance companies; fraternal benefit societies; nonprofit health, hospital, and medical service corporations; prepaid health plans; health maintenance organizations or any similar organization.

"Long-Term Care Insurance", as defined in Section 351A-1 of the Code, means any accident and health insurance policy or rider advertised, marketed, offered or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. The term includes group and individual annuities and life insurance policies or riders which provide directly or which supplement long-term care insurance. The term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of ~~functional~~ capacity. The term shall also include qualified long-term care insurance contracts. Long-term care insurance may be issued by insurers, fraternal benefit societies, nonprofit health, hospital, and medical service corporations, prepaid health plans, health maintenance organizations or any similar organization, to the extent they are otherwise authorized to issue life or health insurance. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage. Long-term care insurance may include benefits for care and treatment in accordance with the tenets and practices of any established church or religious denomination which teaches reliance on spiritual treatment through prayer for healing.

"Maintenance or Personal Care Services", within the meaning of the Internal Revenue Code of 1986, as amended (26 USC 7702B(c)(3)), means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

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"Policy", as defined in Section 351A-1 of the Illinois Insurance Code, *means any policy, contract, subscriber agreement, rider or endorsement delivered or issued for delivery in this State by an insurer, fraternal benefit society, non-profit health, hospital, or medical service corporation, prepaid health plan, health maintenance organization or any similar organization.*

"Qualified Actuary" means a member in good standing of the American Academy of Actuaries.

"Qualified Long-Term Care Contract" ~~has the same meaning as that for a "Qualified long-term care insurance contract" described in Section 351A-1 of the Code. means any insurance contract that provides only coverage of qualified long-term care services and is guaranteed renewable, and does not provide for cash surrender value or other money that can be paid, assigned, pledged or borrowed. Dividends and refunds, other than refunds paid upon death of the insured or complete surrender or cancellation of the contract, may only be used to reduce future premiums or increase future benefits. Qualified long-term care contracts do not pay or reimburse expenses that are reimbursable under Medicare, except when Medicare is a secondary payor or when the contract makes payments per diem or on another periodic basis without regard to actual expenses, and must satisfy consumer protective provisions for long-term care insurance.~~

"Qualified Long-Term Care Insurance Partnership Policy" means a policy that meets all of the following requirements:

It covers an insured who was a resident of Illinois when coverage first became effective under the policy;

It is a qualified long-term care insurance policy as defined in section 7702B(b) of the Internal Revenue Code of 1986 issued not earlier than the effective date of the State plan amendment;

It meets the model regulations and requirements of the National Association of Insurance Commissioners model specified in paragraph (5) of Title VI, section 6021 of the federal Deficit Reduction Act of 2005 (42 USC 1305), and the Director of the Department of Insurance certifies it as meeting these requirements; and

If the policy is sold to an individual who:

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has not attained age 61 as of the date of purchase, the policy provides compound annual inflation protection;

has attained age 61 but has not attained age 76 as of the date of purchase, the policy provides some level of inflation protection; or

has attained age 76 as of the date of purchase, the policy may, but is not required to, provide some level of inflation protection.

"Qualified Long-Term Care Services" means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating and rehabilitation services, and maintenance or personal care services that are required by a chronically ill individual, that are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"Respite Service" may include, but is not limited to, temporary care for insureds aimed at relieving stress for the insureds families. Respite service shall be provided for vacation, rest, errands, family crisis or emergency.

"Similar Policy Forms" means all of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition of "Group Long-Term Care Insurance" found in Section 351A-1(e)(1) of the Code are not considered similar to certificates or policies otherwise issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows: institutional long-term care benefits only, non-institutional long-term care benefits only, or comprehensive long-term care benefits.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2012.40 Policy Definitions

- a) For policies issued after January 1, 2009, no long-term care insurance policy delivered or issued for delivery in this State shall use the terms set forth below, unless the terms are defined in the policy and the definitions satisfy the following requirements.

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"Activities of Daily Living" means at least bathing, continence, dressing, eating, toileting and transferring.

"Acute Condition" means a condition that causes the individual to be medically unstable. Such individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain his or her health status.

"Adult Day Care" means a program, for 6 or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home.

"Assistive Equipment" may include, but is not limited to, tangible personal property with a useful life of at least one year, expressly designed and used for increasing independent functioning in specific tasks or activities of independent living in the home that directly results in a demonstrated decrease in need for assistance from another individual in performing certain tasks or activities.

"Bathing" means washing oneself by sponge bath, or in either a tub or shower, including the task of getting into or out of the tub or shower.

"Cognitive Impairment" means a deficiency in a person's short- or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.

"Continence" means the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).

"Dressing" means putting on and taking off all items of clothing and any necessary braces, fasteners or artificial limbs.

"Eating" means feeding oneself by getting food into the body from a receptacle (such as a plate, cup or table) or by a feeding tube or intravenously.

"Electronic Home Response Services" may include, but are not limited to,

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services designed to provide a 24 hour per day emergency communication link to assistance outside the home for individuals with such severe disabilities~~severely disabled~~ that they are incapable of using conventional or modified communication devices such as the telephone, and who have no other persons available in the home should an emergency arise.

"Hands-on Assistance" means physical assistance (minimal, moderate or maximal) without which the individual would not be able to perform the activity of daily living.

"Home Health Care Services" means medical and nonmedical services provided to ~~ill, disabled or infirmed~~ persons in their residences who are ill or have disabilities or infirmities. Examples of such services may include, but are not limited to, homemaker services, assistance with activities of daily living and respite care services.

"Homemaker Service" may include, but is not limited to, non-medical support provided by trained and professionally supervised homemakers to maintain, strengthen and safeguard the functioning of individuals in their own homes.

"Licensed Health Care Practitioner" means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets requirements as may be prescribed by the Secretary.

"Maintenance Home Health Care Services" may include, but is not limited to, medically related services provided in the home in accordance with services prescribed by a physician. Specific components of maintenance home health care may include: nursing services; physical, respiratory or speech therapy; and medical/health care services provided by a home health care aide.

"Medicare" means "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended", or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof", or words of similar import.

"Mental or Nervous Disorder" shall not be defined to include more than neurosis,

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psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.

"Personal Care" means the provision of hands-on services to assist an individual with activities of daily living, such as bathing, eating, dressing, transferring and toileting.

"Plan of Care" in qualified plans means the specific type and frequency of all services required to maintain the individual in the community, the service providers, and the cost of services. The plan of care shall be specified in writing by a licensed health care provider.

"Respite Service" may include, but is not limited to, temporary care for insureds aimed at relieving stress for the insureds' families. Respite service shall be provided for vacation, rest, errands, family crisis or emergency.

"Skilled Nursing Care", "Intermediate Care", "Personal Care", "Home Care", "Specialized Care", "Assisted Living Care" and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

"Toileting" means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.

"Transferring" means moving into or out of a bed, chair or wheelchair.

- b) For policies issued after January 1, 2009, all providers of services, including, but not limited to, "skilled nursing facility", "intermediate care facility", "extended care facility", "specialized care providers", "assisted living facility", "convalescent nursing home", "personal care facility", and "home care agency" shall be defined in relation to the services and facilities required to be available and the licensure, certification, registration or degree status of those providing or supervising the services. When the definition requires that the provider be appropriately licensed, certified or registered, it shall also state what requirements a provider must meet in lieu of licensure, certification or registration when the state in which the service is to be furnished does not require a provider of these services to be licensed, certified or registered, or when the state licenses, certifies or registers the provider of services under another name.

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- c) For policies issued prior to January 1, 2009, no insurance policy or certificate may be advertised, solicited, delivered or issued for delivery in this State as a traditional long-term care policy unless the policy or subscriber contract contains definitions or terms that are not more restrictive than the requirements of this Section.

"Activities of Daily Living" means at least bathing, continence, dressing, eating, toileting and transferring.

"Acute Condition" means a condition that causes the individual to be medically unstable. Such individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain his or her health status.

"Adult Day Care" means a program for 6 or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other ~~disabled~~ adults with disabilities who can benefit from care in a group setting outside the home.

All providers of services, including but not limited to skilled nursing facility, intermediate care facility, convalescent nursing home, personal care facility, and home care agency shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed or certified.

"Bathing" means washing oneself by sponge bath, or in either a tub or shower, including the task of getting into or out of the tub or shower.

"Chronically Ill Individual", for all traditional long-term care policies that are marketed as "qualified" pursuant to the Internal Revenue Code of 1986, as amended (26 USC 7702B(c)(2)(A)), the term "chronically ill individual" means any individual who has been certified by a licensed health care practitioner as:

being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

requiring substantial supervision to protect such individual from threats to

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health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"Cognitive Impairment" means a deficiency in a person's short- or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.

"Continence" means the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).

"Dressing" means putting on and taking off all items of clothing and any necessary braces, fasteners or artificial limbs.

"Eating" means feeding oneself by getting food into the body from a receptacle (such as a plate, cup or table) or by a feeding tube or intravenously.

"Exceptional Increase" means only those increases filed by an insurer as exceptional for which the Director determines the need for the premium rate increase is justified:

Due to changes in laws or regulations applicable to traditional long-term care coverage in this State; or

Due to increased and unexpected utilization that affects the majority of insurers of similar products.

Except as proved in ~~Sections~~[Section 2012.112](#) and [2012.113](#), exceptional increases are subject to the same requirements as other premium rate schedule increases.

The Director may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase.

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The Director, in determining that the necessary basis for exceptional increase exists, shall also determine any potential offsets to higher claims costs.

"Hands-on Assistance" means physical assistance (minimal, moderate or maximal) without which the individual would not be able to perform the activity of daily living.

"Home Health Care Services" means medical and nonmedical services provided to ~~ill, disabled or infirmed~~ persons in their residences who are ill or have disabilities or infirmities. Examples of such services may include but are not limited to homemaker services, assistance with activities of daily living and respite care services.

"Incidental", as used in ~~Sections~~Section 2012.112(j) and 2012.113(j), means that the value of the traditional long-term care benefit provided is less than 10% of the total value of the benefits provided over the life of the policy. These values shall be measured as of the date of issue.

"Licensed Health Care Practitioner" means any physician (as defined in Section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets requirements as may be prescribed by the Secretary.

"Maintenance or Personal Care Services" within the meaning of the internal Revenue Code of 1986, as amended (26 USC 7702B(c)(3)), means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"Medicare" means "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended", or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof", or words of similar import.

"Mental or Nervous Disorder" shall not be defined to include more than neurosis,

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psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.

"Personal Care" means the provision of hands-on services to assist an individual with activities of daily living, such as bathing, eating, dressing, transferring and toileting.

"Plan of Care" in qualified plans means the specific type and frequency of all services required to maintain the individual in the community, the service providers, and the cost of services. The plan of care shall be specified in writing by a licensed health care provider.

"Qualified Actuary" means a member in good standing of the American Academy of Actuaries.

"Qualified Long-Term Care Contract" has the same meaning as that for a "Qualified long-term care insurance contract" described in Section 351A-1 of the Code. ~~means any insurance contract that provides only coverage of qualified long-term care services and is: guaranteed renewable; does not provide for cash surrender value or other money that can be paid, assigned, pledged or borrowed; dividends and refunds, other than refunds paid upon death of the insured or complete surrender or cancellation of the contract may only be used to reduce future premiums or increase future benefits; contract does not pay or reimburse expenses that are reimbursable under Medicare, except when Medicare is a secondary payor or when the contract makes payments per diem or on another periodic basis without regard to actual expenses; and consumer protective provisions for traditional long-term care insurance are satisfied.~~

"Qualified Long-Term Care Services" means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating and rehabilitation services, and maintenance or personal care services that are required by a chronically ill individual and provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"Similar Policy Forms" means all of the traditional long-term care insurance policies and certificates issued by an insurer in the same traditional long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition found in Section 2012.30 are not considered similar to certificates or policies otherwise issued as traditional long-term care insurance,

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but are similar to other comparable certificates with the same traditional long-term care benefit classifications. For purposes of determining similar policy forms, traditional long-term care benefit classifications are defined as follows: institutional traditional long-term care benefits only, non-institutional traditional long-term care benefits only, or comprehensive traditional long-term care benefits.

"Skilled Nursing Care", "Intermediate Care", "Personal Care", "Home Care", and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

"Toileting" means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.

"Transferring" means moving into or out of a bed, chair or wheelchair.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2012.50 Policy Practices and Provisions

- a) Renewability. The terms "guaranteed renewable" and "noncancellable" shall not be used in any individual long-term care insurance policy or certificate without explanatory language in accordance with the disclosure requirements of Section ~~2012.62~~[2012.70 of this Part](#).
- 1) A policy issued to an individual shall not contain renewal provisions other than "guaranteed renewable" or "noncancellable".
 - 2) The term "guaranteed renewable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.
 - 3) The term "noncancellable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the

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premium rate.

- 4) The term "level premium" may only be used when the insurer does not have the right to change the premium.
 - 5) In addition to the other requirements of subsection (a) ~~of this Section~~, a qualified long-term care insurance contract shall be guaranteed renewable, within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended.
- b) Limitations and Exclusions. A policy may not be delivered or issued for delivery in this State as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:
- 1) Preexisting conditions or diseases;
 - 2) Mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease or senile dementia;
 - 3) Alcoholism and drug addiction;
 - 4) Illness, treatment or medical condition arising out of:
 - A) war or act of war (whether declared or undeclared);
 - B) participation in a felony, riot or insurrection;
 - C) service in the armed forces or units auxiliary thereto;
 - D) suicide (sane or insane), attempted suicide or intentionally self-inflicted injury; or
 - E) aviation (this exclusion applies only to non-fare paying passengers);
 - 5) Treatment provided in a government facility (unless otherwise required by law), services for which benefits are available under Medicare or other governmental program (except Medicaid), any state or federal workers'

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compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;

- 6) Expenses for services or items available or paid under another traditional long-term care insurance or health insurance policy;
- 7) In the case of a tax qualified long-term care insurance contract, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount;
- 8) This subsection (b) is not intended to prohibit exclusions and limitations by type of provider. However, no long term care issuer may deny a claim because services are provided in a state other than in the state in which the policy was issued under the following conditions:
 - A) When the state other than the state in which the policy was issued does not have the provider licensing, certification or registration required in the policy, but when the provider satisfies the policy requirements outlined for providers in lieu of licensure, certification or registration; or
 - B) When the state other than the state in which the policy was issued of ~~policy issue~~ licenses, certifies or registers the provider under another name.
- 9) This subsection (b) is not intended to prohibit territorial limitations.
- c) Extension of Benefits. Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if such institutionalization began while the long-term care insurance was in force and continues without interruption after termination. Such extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.

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- d) Continuation or Conversion
- 1) Group long-term care insurance issued in this State on or after February 1, 1994 shall provide covered individuals with a basis for continuation or conversion of coverage.
 - 2) For the purposes of this Section, "a basis for continuation of coverage" means a policy provision which maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies which restrict provision of benefits and services to, or contain incentives to use certain providers or facilities may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy. The Director shall make a determination as to the substantial equivalency of benefits, and in doing so shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.
 - 3) For the purposes of this Section, "a basis for conversion of coverage" means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced), for at least six months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy the individual is covered, without evidence of insurability.
 - 4) For the purposes of this Section, "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the Director to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts the provision of benefits and services, or contains incentives to use certain providers and/or facilities, the Director, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability,

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benefit levels and administrative complexity. The converted policy offered shall be on a form that is available for general sale in this State.

- 5) Written application for the converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than thirty-one days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy, and shall be guaranteed renewable.
- 6) Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.
- 7) Continuation of coverage or issuance of a converted policy shall be mandatory, except where:
 - A) Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or
 - B) The terminating coverage is replaced not later than 31 days after termination, by group coverage effective on the day following the termination of coverage:
 - i) Providing benefits identical to or benefits determined by the Director to be substantially similar to, or in excess of, those provided by the terminating coverage; and
 - ii) The premium for which is calculated in a manner consistent with the requirements of subsection (d)(6)-~~of this Section~~.
- 8) Notwithstanding any other provision of this Section, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy that provides benefits on the basis

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of incurred expenses, may contain a provision which results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100% of incurred expenses. ~~This~~^{Such} provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.

- 9) The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.
 - 10) Notwithstanding any other provision of this Section, any insured individual whose eligibility for group long-term care coverage is based upon his or her relationship to another person, shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.
 - 11) For the purposes of this Section, a "Managed-Care Plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks.
- e) **Discontinuance and Replacement**
If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:
- 1) Shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced; and
 - 2) Shall not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services.
- f) The premiums charged to an insured shall not increase due to either:

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- 1) The increasing age of the insured at ages beyond 65; or
- 2) The duration the insured has been covered under the policy.
- g) No long-term care insurance policy shall provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.
- h) Electronic Enrollment for Group Policies
 - 1) In the case of a group defined in Section 351A-1(e) of the Code, any requirement that a signature of an insured be obtained by an insurance producer or insurer shall be deemed satisfied if:
 - A) The consent is obtained by telephonic or electronic enrollment by the group policyholder or insurer. A verification of enrollment information shall be provided to the enrollee;
 - B) The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention and prompt retrieval of records; and
 - C) The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure that the confidentiality of individually ~~identifiable~~ identifiable information and privileged information is maintained.
 - 2) Upon request of the Director the insurer shall make available records that will demonstrate the insurer's ability to confirm enrollment and coverage amounts.
- i) Except for subsections (a)(1), (b)(8) and (9) and (g), which become effective January 1, 2009, subsections (a) through (h) become effective July 1, 2008.
- j) For policies issued from July 1, 2008 through January 1, 2009, the following requirements taken from subsections (a)(1), (b)(8) and (g) apply:
 - 1) For purposes of subsection (a), no individual long-term care insurance

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policy or certificate issued to an individual shall contain renewal provisions less favorable to the insured than "guaranteed renewable".

- 2) Subsection (b) is not intended to prohibit exclusions and limitations for payment of services provided outside the United States.
- 3) For purposes of subsection (g), no traditional long-term care insurance policy shall:
 - A) be cancelled, nonrenewed or otherwise terminated on grounds of the age or deterioration of the mental or physical health of the insured individual or certificateholder;
 - B) contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by new or other coverage, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder;
 - C) provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.
- 4) There is no requirement for subsection (b)(9) prior to January 1, 2009.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2012.55 Unintentional Lapse

Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following:

- a) Notice before lapse or termination.
 - 1) No individual long-term care policy or certificate shall be issued until the insurer has received from the applicant a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium; or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to

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designate at least one person who is to receive the notice of termination, in addition to the insured. Designation shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one person. The designation shall include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until 30 days after a premium is due and unpaid. I elect NOT to designate any person to receive such notice." The insurer shall also notify the insured of the right to change this written designation, no less often ~~than~~ once every 2 years.

- 2) When the policyholder or certificateholder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in subsection (a)(1) need not be met until 60 days after the policyholder or certificateholder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall clearly indicate the payment plan selected by the applicant.
 - 3) Lapse or termination for nonpayment of premium. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to subsection (a)(1), at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice shall be given by first class United States mail, postage prepaid; and notice shall not be given until 30 days after a premium is due and unpaid. Notice shall be deemed to have been given as of 5 days after the date of mailing.
- b) In addition to the requirements of subsection (a), a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage, in the event of lapse if the insurer is provided proof that the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This

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option shall be available to the insured if requested within 5 months after termination and shall allow for the collection of past due premium when appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2012.60 Required Disclosure Provisions

- a) **Renewability.** Individual long-term care insurance policies shall contain a renewability provision. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state that the coverage is guaranteed renewable or noncancellable. This provision shall not apply to policies which do not contain a renewability provision and under which the right to ~~nonrenew~~renew is reserved solely to the policyholder as long as required premiums are paid on time. A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, shall include a statement that premium rates may change.
- b) **Riders and Endorsements.** Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy, rider or endorsement.
- c) **Payment of Benefits.** A long-term care insurance policy or certificate that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

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- d) **Limitations:** If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled "Preexisting Condition Limitations". Limitations to preexisting conditions shall be in accordance with Section 351A-5 of the Code.
- e) **Other Limitations or Conditions on Eligibility for Benefits.** In addition to complying with Section 351A-6 of the Code, beginning August 30, 1990, a long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited in Section 351A-6 shall set forth a description of such limitations or conditions, including any required number of days of confinement in a separate paragraph of the policy or certificate and shall label such paragraph "Limitations or Conditions on Eligibility for Benefits".
- f) **Disclosure Requirements for Accelerated Life Products**
- 1) **Policy Summary**
At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy that provides long-term care benefits within the policy or by rider. This requirement does not apply to qualified long-term care insurance contracts. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make delivery no later than at the time of policy delivery. In addition to complying with all applicable requirements, the summary shall also include:
- A) an explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;
- B) an illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits if any, for each covered person;
- C) any exclusion, reductions and limitations on benefits of long-term care; and
- D) if applicable to the policy type, the summary shall also include:

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- i) disclosure of the effects of exercising other rights under the policy;
 - ii) disclosure of guarantees related to long-term care costs of insurance charges; and
 - iii) current and projected maximum lifetime benefits.
- 2) **Benefit Reports**

Any time a long-term care benefit, funded through a life insurance vehicle by the acceleration of the death benefit, is in benefit payment status, a monthly report shall be provided to the policyholder. The report shall include:

 - A) any long-term care benefits paid during the month;
 - B) an explanation of any changes in the policy, including changes in death benefits or cash values, due to long-term care benefits being paid out; and
 - C) the amount of long-term care benefits existing or remaining.
- 3) **Outline of Coverage**

The Outline of Coverage should include an example filled out in John Doe form that illustrates how the long-term care benefit is calculated. Refer to Section 2012.110 and Exhibit C for format and content requirements.
- g) **Disclosure of Tax Consequences.** With regard to life insurance policies that provide an accelerated benefit for long-term care, a disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted, that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. This disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. This subsection (g) shall not apply to qualified long-term care insurance contracts.
- h) **Benefit Triggers.** Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be described in the policy or certificate in a separate paragraph and shall be labeled "Eligibility for

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the Payment of Benefits". Any additional benefit triggers shall also be explained in this paragraph. If these triggers differ for different benefits, explanation of the trigger shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too shall be specified.

- i) A qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in Exhibit C(3) ~~of this Part~~ that indicates that the policy is intended to be a qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended (26 USC 7702B(b)).
- j) A nonqualified traditional long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in Exhibit C(3) ~~of this Part~~. The disclosure statement shall indicate that the policy is not intended to be a qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended (26 USC 7702B).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2012.64 Initial Filing Requirements

- a) This Section applies to any long-term care policy issued in this State on or after January 1, 2003, except that subsections (b)(2)(D) and (b)(3) apply to any long-term care policy issued in this State on or after January 1, 2017.
- b) An insurer shall provide the information listed in this subsection (b) to the Director 30 days prior to making a long-term care insurance form available for sale.
 - 1) A copy of the disclosure documents required in Section 2012.62; and
 - 2) An actuarial certification consisting of at least the following:
 - A) A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;

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- B) A statement that the policy design and coverage provided have been reviewed and taken into consideration;
- C) A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration;
- D) A statement that the premiums contain at least the minimum margin for moderately adverse experience defined in subsection (b)(2)(D)(i) or the specification of and justification for a lower margin as required by subsection (b)(2)(D)(ii).
- i) A composite margin shall not be less than 10% of lifetime claims.
- ii) A composite margin that is less than 10% may be justified in uncommon circumstances. The proposed amount, full justification of the proposed amount and methods to monitor developing experience that would be the basis for withdrawal of approval for such lower margins must be submitted.
- iii) A composite margin lower than otherwise considered appropriate for the stand-alone long-term care policy may be justified for long-term care benefits provided through a life policy or an annuity contract. The lower composite margin, if utilized, shall be justified by appropriate actuarial demonstration addressing margins and volatility when considering the entirety of the product.
- iv) A greater margin may be appropriate in circumstances in which the company has less credible experience to support its assumptions used to determine the premium rates.
- E) Either:
- i) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer, except for reasonable differences attributable to benefits; or

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- D) A demonstration that the gross premiums include the minimum composite margin specified in subsection (b)(2)(D).
- c) In any review of the actuarial certification and actuarial memorandum, the Director may request review by an actuary with experience in long-term care pricing who is independent of the company. In the event the Director asks for additional information as a result of any review, the period in subsection (b) does not include the period during which the insurer is preparing the requested information.
- D) A complete description of the basis for contract reserves that are anticipated to be held under the form, to include:
- i) Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held;
 - ii) A statement that the assumptions used for reserves contain reasonable margins for adverse experience;
 - iii) A statement that the net valuation premium for renewal years does not increase (except for attained age rating where permitted); and
 - iv) A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses. If such a statement cannot be made, a complete description of the situations where this does not occur must be provided and shall include an aggregate distribution of anticipated issues that may be used as long as the underlying gross premiums maintain a reasonably consistent relationship. In the event that gross premiums for a certain age group appear to be inconsistent with this requirement, the Director may request a demonstration under subsection (c) based on a standard age distribution; and
- E) A statement that the premium rate schedule is not less than the

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~~premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits; or a comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences.~~

- e) ~~The Director may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration shall include either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other studies, or both. In the event the Director asks for additional information pursuant to this subsection (e), the 30-day timeframe identified in subsection (b) does not include the period during which the insurer is preparing the requested information.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2012.95 Reporting Requirements

All insurers shall:

- a) Maintain records for each insurance producer of that producer's amount of replacement sales as a percent of the producer's total annual sales and the amount of lapses of long-term care insurance policies sold by the insurance producer as a percent of the producer's total sales.
- b) Report annually by June 30 the 10% of its insurance producers with the greatest percentages of lapses and replacements as measured by subsection (a) as provided in Exhibit K ~~of this Part~~.
- c) Report annually by June 30 the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year as provided in Exhibit K ~~of this Part~~.
- d) Report annually by June 30 the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year as provided in Exhibit K ~~of this Part~~.
- e) Report annually by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of

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claims denied, as provided by Exhibit I ~~of this Part~~.

- f) For purposes of this Section:
- 1) "Policy" means only long-term care insurance;
 - 2) Subject to subsection (f)(3) ~~of this Section~~, "claim" means a request for payment of benefits under an in force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met;
 - 3) "Denied" means the insurer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition; and
 - 4) "Report" means on a Statewide basis.
- g) Reports required under this Section shall be filed with the Director.
- h) Annual Rate Certification Requirements
- 1) This subsection (h) applies to any long-term care policy issued in this State on or after January 1, 2017.
 - 2) The submission requirements required by Section 2012.97 shall apply subsequent to initial rate filings for individual long-term care insurance policies made under this Section 2012.95.
 - 3) The actuarial certification required pursuant to Section 2012.97(c) must be based on calendar year data and submitted annually no later than May 1 of each year starting in the second year following the year in which the initial rate schedules are first used.
 - 4) The actuarial memorandum required pursuant to Section 2012.97(d) must be submitted at least once every 3 years with the certification.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2012.97 Annual Rate Certification Requirements

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- a) This Section applies to any long-term care policy issued in this State on or after January 1, 2017.
- b) The annual rate certifications required by subsection (c) and the memorandum required by subsection (d), shall be filed in accordance with the filing requirements in Section 2012.95.
- c) An annual actuarial certification prepared, dated and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall provide at least the following information:
 - 1) A statement of the sufficiency of the current premium rate schedule including:
 - A) For the rate schedules currently marketed,
 - i) The premium rate schedule continues to be sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated; or
 - ii) If the above statement cannot be made, a statement that margins for moderately adverse experience may no longer be sufficient. In this situation, the insurer shall provide to the Director, within 60 days of the date the actuarial certification is submitted to the Director, a plan of action, including a time frame, for the re-establishment of adequate margins for moderately adverse experience so that the ultimate premium rate schedule would be reasonably expected to be sustainable over the future life of the form with no future premium increases anticipated. Failure to submit a plan of action to the Director within 60 days or to comply with the time frame stated in the plan of action constitutes grounds for the Director to withdraw or modify its approval of the form for future sales pursuant to Section 143 of the Illinois Insurance Code.

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- B) For the rate schedules that are no longer marketed,
- i) That the premium rate schedule continues to be sufficient to cover anticipated costs under best estimate assumptions;
or
 - ii) That the premium rate schedule may no longer be sufficient. In this situation, the insurer shall provide to the Director, within 60 days of the date the actuarial certification is submitted to the Director, a plan of action, including a time frame, for the re-establishment of adequate margins for moderately adverse experience.
- 2) A description of the review performed that led to the statement.
- d) An actuarial memorandum dated and signed by a member of the American Academy of Actuaries who prepares the information shall be prepared to support the actuarial certification and provide at least the following information:
- 1) A detailed explanation of the data sources and review performed by the actuary prior to making the statement in subsection (c)(1).
 - 2) A complete description of experience assumptions and their relationship to the initial pricing assumptions.
 - 3) A description of the credibility of the experience data.
 - 4) An explanation of the analysis and testing performed in determining the current presence of margins.

(Source: Added at 41 Ill. Reg. _____, effective _____)

Section 2012.110 Loss Ratio

- a) This Section shall apply to all long-term care insurance policies or certificates, except those covered under Sections 2012.64, ~~and~~ 2012.112 and 2012.113.
- b) Notice of Rate Schedule Increase

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1) An insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the Director at least 30 days prior to the notice to the policyholders. The notice shall include:

A) An actuarial memorandum documenting that benefits~~Benefits~~ under the long-term care insurance policies ~~are~~shall be deemed reasonable in relation to premiums by demonstrating that~~if the~~ expected loss ratio meets the requirements in subsection (c)~~is at least 60%~~, calculated in a manner that provides for adequate reserving of the long-term care insurance. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

- i)~~1)~~ Statistical credibility of incurred claims experience and earned premiums;
- ii)~~2)~~ The period for which rates are computed to provide coverage;
- iii)~~3)~~ Experienced and projected trends;
- iv)~~4)~~ Concentration of experience within early policy duration;
- v)~~5)~~ Expected claim fluctuation;
- vi)~~6)~~ Experience refunds, adjustments or dividends;
- vii)~~7)~~ Renewability features;
- viii)~~8)~~ Interest;
- ix)~~9)~~ Experimental nature of the coverage;
- x)~~10)~~ Product features such as long elimination periods (period between when the claim arises and insured is eligible to receive benefits), high deductibles and high maximum limits.

B) A statement that, upon approval of the requested amount, the

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insurer agrees to not implement future rate increases on each subject policy for 3 years from the date of implementation of a single rate increase for each policy form.

- C) In lieu of a single increase, the insurer may request a series of scheduled rate increases that are actuarially equivalent to the single amount requested by the insurer over the lifetime of the policy. The entire series would be reviewed and considered at one time as part of the current rate increase filing. After implementation of the first increase, the insurer is subject to the 3-year monitoring provision in Section 2012.112(d), but the Director is allowed to require modification of later increases that were not appropriate based on the experience following the initial rate increase. When determining the rate comparison for new business, forms subject to a series of increases shall not be included.
- D) A statement indicating whether the increase or series of scheduled increases triggers the offering of a contingent benefit upon lapse. The insurer shall offer a contingent benefit upon lapse for any increase, whether a single increase or a series of scheduled increases, that would trigger the offering of the contingent benefit upon lapse as defined in Section 2012.127(d). The insurer shall notify policyholders and certificate holders of the contingent benefit upon lapse, in conjunction with the implementation of a rate increase. If the rate increase is approved as a series of scheduled increases and the sum of all scheduled increases would ultimately trigger the offering of the contingent benefit upon lapse, the insurer will be required to include the contingent benefit upon lapse and the notification at the time of each scheduled increase.
- E) The premium increase notification letter to policyholders at the time of the premium rate increase for informational purposes. The insurer shall clearly disclose to policyholders the following elements:
- i) The amount of the premium rate increase requested and implementation schedule (e.g., single premium increase applied or phased in through a series of premium increases);

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- ii) Available benefit reduction/rate increase mitigation actions;
 - iii) Clear disclosure addressing the guaranteed renewable nature of the policy/coverage and that the insured should understand that premium rates may increase again in the future; and
 - iv) Offer of contingent benefit upon lapse, if applicable.
 - 2) At the request of the insurer, the Director may also consider other options that may be made available to insureds that may mitigate the impact of the rate increases on the insured population or alternative actuarial methodologies relating to the rate increase. The insurer shall provide an explanation and demonstration on how the methodology is actuarially justified and/or how the new mitigation option may reasonably benefit insureds. No alternative method/approach may be used until it has been accepted by the Director.
- c) Loss Ratio
 - 1) The expected loss ratio shall be at least:
 - A) the greater of 60% or the lifetime loss ratio used in the original pricing, applied to the current rate schedule on January 1, 2017, plus 80% applied to any premium increase that is filed after that date on an individual policy form; or
 - B) 75% applied to any premium increase that is filed on a group policy form.
 - 2) All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves as specified in 50 Ill. Adm. Code 2004 (Accident and Health Reserves). The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.
- d) Subsections ~~Subsection (b) and (c) of this Section~~ shall not apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that

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funds long-term care benefits entirely by accelerating the death benefit is considered to provide reasonable benefits in relation to premiums paid, if the policy complies with all of the following provisions:

- 1) The interest credited internally to determine cash value accumulations, including long-term care, if any, is guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
- 2) The portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of Section 229.2 of the Code;
- 3) The policy meets the disclosure requirements of Sections 351A-9.1 and 351A-9.2 of the Code;
- 4) Any policy illustration that meets the applicable requirements of 50 Ill. Adm. Code 1406;
- 5) An actuarial memorandum is filed with the Department that includes:
 - A) A description of the basis on which the long-term care rates were determined;
 - B) A description of the basis for the reserves;
 - C) A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;
 - D) A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;
 - E) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
 - F) The estimated average annual premium per policy and the average issue age;
 - G) A statement as to whether underwriting is performed at the time of

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application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

- H) A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2012.112 Premium Rate Schedule Increases

- a) This Section shall apply as follows:
- 1) Except as provided in subsection (a)(2) ~~of this Section~~, this Section applies to any long-term care policy issued in this State on or after January 1, 2003 and prior to January 1, 2017.
 - 2) For certificates issued on or after July 1, 2002 and before January 1, 2017, under a group long-term care insurance policy as defined in Section 351A-1(e)(1) of the Code, if the policy was in force prior to July 1, 2002, the provisions of this Section shall apply on the policy anniversary following July 1, 2003.
- b) An insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the Director at least 30 days prior to the notice to the policyholders and shall include:
- 1) Information required by Section 2012.62~~;~~
 - 2) Certification by a qualified actuary that:
 - A) If the requested premium rate schedule increase is implemented and the underlying assumptions that reflect moderately adverse conditions are realized, no further premium rate schedule increases

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are anticipated;

- B) The premium rate filing is in compliance with the provisions of this Section;
- C) The insurer may request a premium rate schedule increase less than what is required under this Section. The Director may approve that premium rate schedule increase without submission of the certification in subsection (b)(2)(A) if:
- i) the actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required under subsection (b)(2)(A);
 - ii) the premium rate schedule increase filing satisfies all other requirements of this Section; and
 - iii) the premium rate increase filing is, in the opinion of the Director, in the best interest of policyholders.
- 3) An actuarial memorandum justifying the rate schedule change request that includes:
- A) Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale;
- i) Annual values for the 5 years preceding and the 3 years following the valuation date shall be provided separately;
 - ii) The projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase;
 - iii) The projections shall demonstrate compliance with subsection (c) ~~of this Section~~; and

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- iv) For exceptional increases, the projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and in the event the Director determines, as provided in the definition of "Exceptional Increase" found in Section 2012.30, that offsets may exist, the insurer shall use appropriate net projected experience;
- B) Disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger the contingent benefit upon lapse;
- C) Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary;
- D) A statement that policy design, underwriting and claims adjudication practices have been taken into consideration; ~~and~~
- E) In the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates.;
- 4) A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the Director.;
- 5) A statement that, upon approval of the requested amount, the insurer agrees to not implement future rate increases on each subject policy for three years from the date of implementation of a single rate increase for each policy form.
- 6) In lieu of a single increase, the insurer may request a series of scheduled rate increases that are actuarially equivalent to the single amount requested by the insurer over the lifetime of the policy. The entire series would be reviewed and considered at one time as part of the current rate increase filing. However, after implementation of the first increase, the insurer is

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subject to the three-year monitoring provision in subsection (d), but the Director is allowed to require modification of later increases that were not appropriate based on the experience following the initial rate increase. When determining the rate comparison for new business, forms subject to a series of increases shall not be included.

- 7) The insurer shall file with the Director the premium increase notification letter to policyholders at the time of the premium rate increase for informational purposes. The insurer shall clearly disclose to policyholders the following elements:
- A) The amount of the premium rate increase requested and the implementation schedule (e.g., single premium increase applied or phased in a series of premium increases);
 - B) Available benefit reduction/rate increase mitigation actions;
 - C) Clear disclosure addressing the guaranteed renewable nature of the policy/coverage and that the insured should understand that premium rates may increase again in the future; and
 - D) Offer of contingent benefit upon lapse, if applicable.
- 85) Sufficient information for review and approval by the Director of the premium rate schedule increase.
- c) All premium rate schedule increases shall be determined in accordance with the following requirements:
- 1) Exceptional increases shall provide that 70% of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;
 - 2) Premium rate schedule increases shall be calculated such that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

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- A) The accumulated value of the initial earned premium times the greater of 58% and the originally filed loss ratio;
- B) 85% of the accumulated value of prior premium rate schedule increases on an earned basis;
- C) The present value of future projected initial earned premiums times the greater of 58% and the originally filed loss ratio~~58%~~; and
- D) 85% of the present value of future projected premiums not in subsection (c)(2)(C) on an earned basis;
- 3) In the event that a policy form has both exceptional and other increases, the values in subsections (c)(2)(B) and (D)~~of this Section~~ will also include 70% for exceptional rate increase amounts; ~~and~~
- 4) All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves as specified in 50 Ill. Adm. Code 2004 (Accident and Health Reserves). The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages; and.
- 5) The present value of future projected incurred claims calculated in subsection (c)(2) shall be on a best estimate basis.
- d) For each rate increase that is implemented, the insurer shall file for review and approval by the Director updated projections, as defined in subsection (b)(3)(A)~~of this Section~~, annually for the next 3 years and include a comparison of actual results to projected values. The Director may extend the period to greater than 3 years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (k)~~of this Section~~, the projections required by this subsection (d) shall be provided to the policyholder in lieu of filing with the Director.
- e) If any premium rate in the revised premium rate schedule is greater than 200% of the comparable rate in the initial premium schedule, lifetime projections, as defined in subsection (b)(3)(A)~~of this Section~~, shall be filed for review and approval by the Director every 5 years following the end of the required period in subsection (d)~~of this Section~~. For group insurance policies that meet the

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conditions in subsection (k) ~~of this Section~~, the projections required by this subsection (e) shall be provided to the policyholder in lieu of filing with the Director.

- f) If the Director has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (c) ~~of this Section~~, the Director:
- 1) May require the insurer to implement any of the following:
 - A) Premium rate schedule adjustments; or
 - B) Other measures to reduce the difference between the projected and actual experience.
 - 2) Should give consideration to subsection (b)(3)(E) ~~of this Section~~ when determining whether the actual experience adequately matches the projected experience.
- g) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file:
- 1) A plan, subject to the Director's approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the Director may impose the condition in subsection (h) ~~of this Section~~; and
 - 2) The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to subsection (c) of this Section had the greater of the original anticipated lifetime loss ratio or 58% been used in the calculations described in subsections (c)(2)(A) and (c)(2)(C) ~~of this Section~~.
- h) The Director shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to

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determine if significant adverse lapsation has occurred or is anticipated:

- 1) For a rate increase filing that meets the following criteria:
 - A) The rate increase is not the first rate increase requested for the specific policy form or forms;
 - B) The rate increase is not an exceptional increase; and
 - C) The majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.
- 2) In the event significant adverse lapsation has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the Director may determine that a rate spiral exists. Following the determination that a rate spiral exists, the Director may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates.
 - A) The offer shall:
 - i) Be subject to the approval of the Director;
 - ii) Be based on actuarially sound principles, but not be based on attained age; and
 - iii) Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy.
 - B) The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of:
 - i) The maximum rate increase determined based on the

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combined experience; and

- ii) The maximum rate increase determined based only on the experience of the insured's originally issued form plus 10%.
- i) If the Director determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the Director may, in addition to the provisions of subsection (h) ~~of this Section~~, prohibit the insurer from either of the following:
 - 1) Filing and marketing comparable coverage for a period of up to 5 years; or
 - 2) Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.
 - j) Subsections (a) through (i) ~~of this Section~~ shall not apply to policies for which the long-term care benefits provided by the policy are "Incidental", as defined in Section 2012.30, if the policy complies with all of the following provisions:
 - 1) The interest credited internally to determine cash value accumulations, including long-term care, if any, is guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
 - 2) The portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in any of the following:
 - A) Section 229.2 of the Code ~~[215 ILCS 5/229.2]~~;
 - B) Section 229.4 of the Code ~~[215 ILCS 5/229.4]~~;
 - 3) The policy meets the disclosure requirements of Sections 351A-9.1 and 9.2 of the Code;
 - 4) The portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements as applicable in the following:

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- A) Policy illustrations as required by 50 Ill. Adm. Code 1406;
- B) Disclosure requirements in 50 Ill. Adm. Code ~~1551~~1451;
- 5) An actuarial memorandum is filed with the Director that includes:
 - A) A description of the basis on which the long-term care rates were determined;
 - B) A description of the basis for the reserves;
 - C) A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;
 - D) A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;
 - E) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
 - F) The estimated average annual premium per policy and the average issue age;
 - G) A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and
 - H) A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.
- k) At the request of the insurer, the Director may also consider other options that may be made available to insureds that may mitigate the impact of the rate

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increases on the insured population or alternative actuarial methodologies relating to the rate increase. The insurer shall provide an explanation and demonstration on how that methodology is actuarially justified and/or how the new mitigation option may reasonably benefit insureds. No alternative method/approach may be used until it has been accepted by the Director.

- 1) Subsections (f) and (h) ~~of this Section~~ shall not apply to group insurance policies as defined in Section 351A-1(e)(1) of the Code if:
- 1) The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or
 - 2) The policyholder, and not the certificateholders, pays a material portion of the premium, which shall not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2012.113 Premium Rate Schedule Increases for Policies Subject to Loss Ratio Limits Related to Original Filings

- a) This Section shall apply as follows:
- 1) Except as provided in subsection (a)(2), this Section applies to any long-term care policy or certificate issued in this State on or after January 1, 2017.
 - 2) For certificates issued on or after January 1, 2017, under a group long-term care insurance policy as defined in Section 351A-1(e)(1) of the Code, which was in force prior to January 1, 2017, the provisions of this Section shall apply on the policy anniversary following July 1, 2017.
- b) An insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the Director at least 30 days prior to the notice to the policyholders and shall include:
- 1) Information required by Section 2012.62;
 - 2) Certification by a qualified actuary that:

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- A) If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated;
- B) The premium rate filing is in compliance with the provisions of this Section;
- C) The insurer may request a premium rate schedule increase less than what is required under this Section and the Director may approve that premium rate schedule increase, without submission of the certification in subsection (b)(2)(A), if:
- i) the actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required under subsection (b)(2)(A);
 - ii) the premium rate schedule increase filing satisfies all other requirements of this Section; and
 - iii) the premium rate schedule increase filing is, in the opinion of the Director, in the best interest of policyholders;
- 3) An actuarial memorandum justifying the rate schedule change request that includes:
- A) Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale.
- i) Annual values for the 5 years preceding and the 3 years following the valuation date shall be provided separately;
 - ii) The projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase;

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- iii) The projections shall demonstrate compliance with subsection (c); and
- iv) For exceptional increases, the projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase. In the event the Director determines, as provided in the definition of "exceptional increase" found in Section 2012.30, that offsets may exist, the insurer shall use appropriate net projected experience;
- B) Disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse;
- C) Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary;
- D) A statement that policy design, underwriting and claims adjudication practices have been taken into consideration;
- E) In the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, composite rates, filed by the insurer, reflecting projections of new certificates; and
- F) A demonstration that actual and projected costs exceed costs anticipated at the time of initial pricing under moderately adverse experience and that the composite margin specified in Section 2012.64(b)(2)(D) is projected to be exhausted;
- 4) A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the Director; and

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- 5) Sufficient information for review and approval of the premium rate schedule increase by the Director.
- c) All premium rate schedule increases shall be determined in accordance with the following requirements:
- 1) Exceptional increases shall provide that 70% of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;
 - 2) Premium rate schedule increases shall be calculated such that the sum of the lesser of the accumulated value of incurred claims, without the inclusion of active life reserves, or the accumulated value of historic expected claims, without the inclusion of active life reserves, plus the present value of future projected incurred claims, projected without the inclusion of active life reserves, will not be less than the sum of the following:
 - A) The accumulated value of the initial earned premium times the greater of 58% and the originally filed loss ratio;
 - B) 85% of the accumulated value of prior premium rate schedule increases on an earned basis;
 - C) The present value of future projected initial earned premiums times the greater of 58% and the originally filed loss ratio; and
 - D) 85% of the present value of future projected premiums not in subsection (c)(2)(C) on an earned basis;
 - 3) In the event that a policy form has both exceptional and other increases, the values in subsections (c)(2)(B) and (D) will also include 70% for exceptional rate increase amounts;
 - 4) All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves specified in 50 Ill. Adm. Code 2004 (Accident and Health Reserves). The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages; and

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- 5) The present value of future projected incurred claims calculated in subsection (c)(2) shall be on a best estimate basis.
- d) For each rate increase that is implemented, the insurer shall file for review and approval by the Director updated projections, as defined in subsection (b)(3)(A), annually for the next 3 years and include a comparison of actual results to projected values. The Director may extend the period to greater than 3 years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (k), the projections required by this subsection (d) shall be provided to the policyholder in lieu of filing with the Director.
- e) If any premium rate in the revised premium rate schedule is greater than 200% of the comparable rate in the initial premium schedule, lifetime projections, as defined in subsection (b)(3)(A), shall be filed for review and approval by the Director every 5 years following the end of the required period in subsection (d). For group insurance policies that meet the conditions in subsection (k), the projections required by this subsection (e) shall be provided to the policyholder in lieu of filing with the Director.
- f) If the Director has determined that the actual experience following a rate increase does not adequately match the projected experience, and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (c), the Director:
- 1) May require the insurer to implement any of the following:
 - A) Premium rate schedule adjustments; or
 - B) Other measures to reduce the difference between the projected and actual experience.
 - 2) Should give consideration to subsection (b)(3)(E) when determining whether the actual experience adequately matches the projected experience.
- g) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file a plan, subject

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to Director approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect. Otherwise, the Director may impose the condition in subsection (h).

- h) The Director shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if significant adverse lapsation has occurred or is anticipated.
- 1) The following rate increase filings are eligible for the contingent benefit upon lapse:
- A) The rate increase is not the first rate increase requested for the specific policy form or forms;
- B) The rate increase is not an exceptional increase; and
- C) The majority of the policies or certificates to which the increase is applicable.
- 2) In the event significant adverse lapsation has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the Director may determine that a rate spiral exists. Following the determination that a rate spiral exists, the Director may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase, the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates.
- A) The offer shall:
- i) Be subject to the approval of the Director;
- ii) Be based on actuarially sound principles, but not be based on attained age; and

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- iii) Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy.
- B) The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of:
 - i) The maximum rate increase determined based on the combined experience; and
 - ii) The maximum rate increase determined based only on the experience of the insureds originally issued the form plus 10%.
- i) If the Director determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the Director may, in addition to the provisions of subsection (h), prohibit the insurer from either of the following:
 - 1) Filing and marketing comparable coverage for a period of up to 5 years; or
 - 2) Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.
- j) Subsections (a) through (i) shall not apply to policies for which the long-term care benefits provided by the policy are "incidental", as defined in Section 2012.30, if the policy complies with all of the following provisions:
 - 1) The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
 - 2) The portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements, as applicable, in either of the following:

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- A) Section 229.2 of the Code;
- B) Section 229.4 of the Code;
- 3) The policy meets the disclosure requirements of Sections 351A-9.1 and 351A-9.2 of the Code;
- 4) The portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements, as applicable, in the following:
 - A) Policy illustrations as required by 50 Ill. Adm. Code 1406;
 - B) Disclosure requirements in 50 Ill. Adm. Code 1551;
- 5) An actuarial memorandum is filed with the Director that includes:
 - A) A description of the basis on which the long-term care rates were determined;
 - B) A description of the basis for the reserves;
 - C) A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;
 - D) A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;
 - E) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
 - F) The estimated average annual premium per policy and the average issue age;
 - G) A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting

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or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

- H) A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.
- k) At the request of the insurer, the Director may also consider other options that may be made available to insureds that may mitigate the impact of the rate increases on the insured population or alternative actuarial methodologies relating to the rate increase. The insurer shall provide an explanation and demonstration on how the methodology is actuarially justified and/or how the new mitigation option may reasonably benefit insureds. No alternative method/approach may be used until it has been accepted by the Director.
- l) Subsections (f) and (h) shall not apply to group insurance policies as defined in Section 351A-1(e)(1) of the Code if:
- 1) The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or
 - 2) The policyholder, and not the certificateholders, pays a material portion of the premium, which shall not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.

(Source: Added at 41 Ill. Reg. _____, effective _____)

Section 2012.122 Standards for Marketing

- a) Every insurer, as defined herein, marketing long-term care insurance coverage in this State, directly or through its producers, shall:
- 1) Establish marketing procedures and producer training requirements to assure that:
 - A) Any marketing activities, including any comparison of policies, by its agents or other producers will be fair and accurate; and

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- B) Excessive insurance is not sold or issued.
- 2) Display prominently by type or stamp or other appropriate means on the first page of the outline of coverage and policy the following: "NOTICE TO BUYER: THIS POLICY MAY NOT COVER ALL THE COSTS ASSOCIATED WITH LONG-TERM CARE INCURRED BY THE BUYER DURING THE PERIOD OF COVERAGE. THE BUYER IS ADVISED TO REVIEW CAREFULLY ALL POLICY LIMITATIONS."
 - 3) Provide copies of the disclosure forms required in Section 2012.62(c) and Exhibits F and J ~~of this Part~~ to the applicant.
 - 4) Inquire of a prospective applicant or enrollee for long-term care insurance, and otherwise make every reasonable effort to identify, whether the applicant or enrollee already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that, in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required.
 - 5) Every insurer or entity marketing long-term care insurance shall establish auditable procedures for verifying compliance with this subsection (a).
 - 6) The insurer shall, at solicitation, provide written notice to the prospective policyholder and certificateholder of the Senior Health Insurance Program (SHIP) that such a program is available and the most current name, address and telephone number of the program. The current address and toll-free telephone number is One Natural Resources Way, #100 Springfield IL 62702-1271 (800)252-8966. The current email address is AGING.SHIP@illinois.gov. 320 W. Washington Street, Springfield, Illinois 62767-0001, 1-800-548-9034.
 - 7) For long-term care health insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to Section 2012.50(a)(3) ~~of this Part~~.
 - 8) Provide an explanation of the contingent benefit upon lapse provided for in Section 2012.127(d)(2) ~~of this Part~~ and, if applicable, the additional

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contingent benefit upon lapse provided to policies with fixed or limited premium paying periods in Section 2012.127(d)(3)-of this Part.

- b) In addition to the practices prohibited in Article XXVI of the Code, the following acts and practices are prohibited:
- 1) **Twisting.** Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy or to take out a policy of insurance with another insurer.
 - 2) **High pressure tactics.** Employing any method of marketing having the effect of, or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.
 - 3) **Cold lead advertising.** Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company.
 - 4) **Misrepresentation.** Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.
- c) With respect to the obligations set forth in this subsection, the primary responsibility of an association when endorsing or procuring long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations should provide information regarding long-term care insurance policies or certificates to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being sold by the insurer.
- 1) The insurer shall file with this Department the following material:
 - A) The policy and certificate;

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- B) A corresponding outline of coverage, as referenced in Exhibit C of this Part~~;~~ and
 - C) All advertisements requested by the Department.
- 2) The association shall disclose in any long-term care insurance solicitation:
- A) The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from the endorsement or sale of the policy or certificate to its members~~;~~ and
 - B) A brief description of the processes under which such policies and the insurer issuing such policies were selected.
- 3) If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose ~~that~~~~sueh~~ fact to its members.
- 4) The board of directors of associations shall review and approve such insurance policies as well as the compensation arrangements made with the insurer.
- 5) With respect to long-term care insurance contracts, the association shall also:
- A) Engage the services of a person with expertise in long-term care insurance, not affiliated with the insurer, to conduct an examination of the policies including its benefits, features, and rates and update such examination thereafter in the event of a material change;
 - B) Actively monitor the marketing efforts of the insurer and its agents; and
 - C) Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates.
- 6) No group long-term care insurance policy or certificate may be issued to

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an association unless the insurer files with this Department the information required in this subsection (c).

- 7) The insurer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in this subsection (c).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2012.126 Right to Reduce Coverage and Lower Premiums

- a) Coverage Reduction Options
 - 1) Every long-term care insurance policy and certificate shall include a provision that allows the policyholder or certificateholder to reduce coverage and lower the policy or certificate premium in at least one of the following ways:
 - A) Reducing the maximum benefit; or
 - B) Reducing the daily, weekly or monthly benefit amount.
 - 2) The insurer may also offer other reduction options that are consistent with the policy or certificate design or the carrier's administrative processes.
 - 3) In the event the reduction in coverage involves the reduction or elimination of the inflation protection provision, the insurer shall allow the policyholder to continue the benefit amount in effect at the time of the reduction.
- b) The provision shall include a description of the ways in which coverage may be reduced and the process for requesting and implementing a reduction in coverage.
- c) The premium for the reduced coverage shall:
 - 1) Be based on the same age and underwriting class used to determine the premium for the coverage currently in force; and

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- 2) Be consistent with the approved rate table.
- e) The age to determine the premium for the reduced coverage shall be based on the age used to determine the premiums for the coverage currently in force.
- d) The insurer may limit any reduction in coverage to plans or options available for that policy form and to those for which benefits will be available after consideration of claims paid or payable.
- e) If a policy or certificate is about to lapse, the insurer shall provide a written reminder to the policyholder or certificateholder of his or her right to reduce coverage and premiums in the notice required by Section 2012.55(a)(3) ~~of this Part.~~
- f) This Section does not apply to life insurance policies or riders containing accelerated long-term care benefits.
- g) The requirements of this Section shall apply to any long-term care policy issued in this State on or after July 2009.
- h) A premium increase notice required by Section 2012.62(e) shall include:
- 1) An offer to reduce policy benefits provided by the current coverage, consistent with the requirements of this Section;
 - 2) A disclosure stating that all options available to the policyholder may not be of equal value; and
 - 3) In the case of a partnership policy, a disclosure that some benefit reduction options may result in a loss in partnership status that may reduce policyholder protections.
- i) The requirements of subsection (h) shall apply to any rate increase implemented in this State on or after July 1, 2017.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2012.127 Nonforfeiture Benefit Requirement

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- a) This Section does not apply to life insurance policies or riders containing accelerated long-term care benefits.
- b) To comply with the requirement to offer a nonforfeiture benefit pursuant to Section 2012.86 of this Part:
 - 1) A policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in Section 2012.127(e); and
 - 2) The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the Outline of Coverage or other materials given to the prospective policyholder.
- c) If the offer required to be made under Section 2012.86 ~~of this Part~~ is rejected, the insurer shall provide the contingent benefit upon lapse described in this Section. Even if this offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit upon lapse in subsection (d)(3) shall still apply.
- d) After rejection of the offer required under Section 2012.86 ~~of this Part~~, for individual and group policies without nonforfeiture benefits ~~issued after July 1, 2002~~, the insurer shall provide the contingent benefit upon lapse:
 - 1) In the event a group policyholder elects to make the nonforfeiture benefit an option to the certificateholder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.
 - 2) For policies or certificates that have reached their twentieth duration, a contingent benefit on lapse shall be triggered every time an insurer increases the premium rates. For policies or certificates that have not reached their twentieth duration, a contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, and the policy or certificate lapsing within 120 days after the due date of the premium so increased. Unless otherwise required, policyholders shall be notified at least 30 days prior to

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the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

<u>Issue Age</u>	<u>Percent Increase Over Initial Premium</u>
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54 and under	100+10%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%

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86	14%
87	13%
88	12%
89	11%
90 and over	10%

- 3) A contingent benefit upon lapse shall also be triggered for policies with a fixed or limited premium paying period every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, the policy or certificate lapsing within 120 days after the due date of the premium so increased, and the ratio in subsection (d)(5)(B) being 40% or more. Unless otherwise required, policyholders shall be notified at least 30 days prior to the due date of the premium reflecting the rate increase. This subsection (d)(3) becomes effective January 1, 2009.

Triggers for a Substantial Premium Increase

<u>Issue Age</u>	<u>Percent Increase Over Initial Premium</u>
Under 65	50%
65-80	30%
Over 80	10%

This provision shall be in addition to the contingent benefit provided by subsection (d)(2) and, when both are triggered, the benefit provided shall be at the option of the insured.

- 4) On or before the effective date of a substantial premium increase as defined in subsection (d)(2), the insurer shall:
 - A) Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;
 - B) Offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of subsection (e). This option may be elected at any time during the 120-day period

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referenced in subsection (d)(2); and

- C) Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection (d)(2) shall be deemed to be the election of the offer to convert in subsection (d)(4) unless the automatic option in subsection (d)(5)(C) applies.
- 5) On or before the effective date of a substantial premium increase, as defined in subsection (d)(3), the insurer shall:
- A) Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;
 - B) Offer to convert the coverage to a paid-up status when the amount payable for each benefit is 90% of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the 120-day period referenced in subsection (d)(3); and
 - C) Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection (d)(3) shall be deemed to be the election of the offer to convert in subsection (d)(5)(B) if the ratio is 40% or more.
- 6) For policies issued prior to July 1, 2002, the insurer shall provide these benefits without amending the contract or certificate to include them.
- e) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse in accordance with subsection (d)(2), but not subsection (d)(3), are described as follows:
- 1) For purposes of this Section, attained age rating is defined as a schedule of premiums starting from the issue date which increases age at least 1% per year prior to age 50, and at least 3% per year beyond age 50.

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- 2) For purposes of this Section, the nonforfeiture shall be a shortened benefit period providing paid-up traditional long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in subsection (e)(3) ~~of this Section~~.
- 3) The standard nonforfeiture credit will be equal to 100% of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of subsection (f) of this Section.
- 4) No policy or certificate which includes a nonforfeiture benefit shall begin a nonforfeiture benefit later than the end of the third year following the policy or certificate issue date except that, for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:
 - A) The end of the tenth year following the policy or certificate issue date; or
 - B) The end of the second year following the date the policy or certificate is no longer subject to attained age rating.
- 5) Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.
- f) All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid up status will not exceed the maximum benefits which would have been payable if the policy or certificate had remained in premium paying status.
- g) There shall be no difference in the minimum nonforfeiture benefits as required under this Section for group and individual policies.

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- h) The requirements of this Section shall apply to any long-term care policy issued in this State, and shall apply as follows:
- 1) Except as provided in subsections (h)(2) and (3), the provisions of this Section apply to any long-term care policy issued in this State on or after July 2008.
 - 2) For certificates issued on or after July 2008, under a group long-term care insurance policy issued to one or more employers or labor organizations, or to a trust or to the trustee or trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations, which policy was in force in July 2008, the provisions of this Section shall not apply.
 - 3) The last sentence in subsection (c) and all of subsections (d)(3) and (d)(4) shall apply to any long-term care insurance policy or certificate issued in this State after January 2009, except new certificates on a group policy issued to one or more employers or labor organizations, or to a trust or to the trustee or trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations, after July 2009.
- i) Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of Sections 2012.110, ~~or 2012.112~~ or Section 2012.113 ~~of this Part~~, whichever is applicable, treating the policy as a whole.
- j) To determine whether contingent nonforfeiture upon lapse provisions are triggered under subsection (d)(2) or (d)(3), a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer.
- k) A nonforfeiture benefit for qualified long-term care insurance contracts that are

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level premium contracts shall be offered that meets the following requirements:

- 1) The nonforfeiture provision shall be appropriately captioned;
- 2) The nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts approved by the Director for the same contract form; and
- 3) The nonforfeiture provision shall provide at least one of the following:
 - A) Reduced paid-up insurance;
 - B) Extended term insurance;
 - C) Shortened benefit period; or
 - D) Other similar offerings approved by the Director.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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Section 2012.EXHIBIT A Replacement Notice for Other Than Direct Response Solicitations**NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE**

[Insurance Company Name and Address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance [and replace it with an individual long-term care insurance](#) policy to be issued by [Company Name] Insurance Company. Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you have, and terminate your policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT [BROKER OR OTHER REPRESENTATIVE]:
(Use additional sheets as necessary)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent

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(depleted) under the original policy.

- 3. If you are replacing existing long-term care insurance coverage you may wish to secure the advice of your present insurer or its insurance producer regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
- 4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of Insurance Producer) [Type Name and Address of Insurance Producer]

The above "Notice to Applicant" was delivered to me on:

(Applicant's Signature)

(Date)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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Section 2012.EXHIBIT F Long-Term Care Insurance Personal Worksheet

People buy long-term care insurance for many reasons. Some don't want to use their own assets to pay for long-term care. Some buy insurance to make sure they can choose the type of care they get. Others don't want their family to have to pay for care or don't want to go on Medicaid. But long-term care insurance may be expensive, and may not be right for everyone.

The company will ask you to fill out this worksheet to help you and the company decide if you should buy this policy. By State law, the insurance company must fill out part of the information on this worksheet.

Premium Information

Policy Form Number(s) _____

The premium for the coverage you are considering will be [\$ _____ per month, or \$ _____ per year,] [a one-time single premium of \$ _____]

Type of Policy (noncancellable/guaranteed renewable): _____

The Company's Right to Increase Premiums: _____

[The company cannot raise your rates on this policy.] [The company has a right to increase premiums on this policy form in the future, provided it raises rates for all policies in the same class in this State.] [Insurers shall use appropriate bracketed statement. Rate guarantees shall not be shown on this form.]

Rate Increase History

The company has sold long-term care insurance since [year] and has sold this policy since [year]. [The company has never raised its rates for any long-term care policy it has sold in this State or any other state.] [The company has not raised its rates for this policy form or similar policy forms in this State or any other state in the last 10 years.] [The company has raised its premium rates on this policy form or similar policy forms in the last 10 years. Following is a summary of the rate increases.]

[The issuer shall list each premium increase it has instituted on this or similar policy forms in this State or any other state during the last 10 years. The list shall provide the policy form, the calendar years the form was available for sale, and the calendar year and the amount (percentage)

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of each increase.]

[The insurer shall provide minimum and maximum percentages if the rate increase is variable by rating characteristics. The insurer may provide, in a fair manner, additional explanatory information as appropriate.]

Questions Related to Your Income

How will you pay each year's premium?

- From my Income From my Savings/Investments My Family will Pay

[Have you considered whether you could afford to keep this policy if the premiums were raised substantially, for example, by 20%?]

What is your annual income? (check one)

- Under \$10,000 \$[10-20,000] \$[20-30,000] \$[30-50,000] Over \$50,000

How do you expect your income to change over the next 10 years? (check one)

- No change Increase Decrease

If you will be paying premiums with money received only from your own income, a rule of thumb is that you may not be able to afford this policy if the premiums will be more than 7% of your income.

Will you buy inflation protection? (check one) Yes No

If not, have you considered how you will pay for the difference between future costs and your daily benefit amount?

- From my Income From my Savings/Investments My Family will Pay

The national average annual cost of care in [insert year] was [insert \$ amount], but this figure varies across the country. In ten years the national average annual cost would be about [insert \$ amount] if costs increase 5% annually.

What elimination period are you considering? Number of day _____ Approximate cost \$ _____ for that period of care.

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How are you planning to pay for your care during the elimination period? (check one)

- From my Income From my Savings/Investments My Family will Pay

Questions Related to Your Savings and Investments

Not counting your home, about how much are all of your assets (your savings and investments) worth? (check one)

- Under \$20,000 \$20,000-\$30,000 \$30,000-\$50,000 Over \$50,000

How do you expect your assets to change over the next ten years? (check one)

- Stay about the same Increase Decrease

If you are buying this policy to protect your assets and your assets are less than \$30,000, you may wish to consider other options for financing your long-term care.

Disclosure Statement

- The answers to the questions above describe my financial situation

Or

- I choose not to complete this information

(Check one.)

- I acknowledge that the carrier and/or its agent (below) has reviewed this form with me including the premium, premium rate increase history and potential for premium increases in the future. [For direct mail situations, use the following: I acknowledge that I have reviewed this form including their premium, premium rate increase history and potential for premium increases in the future.] I understand the above disclosures. **I understand that the rates for this policy may increase in the future.** (This box must be checked).

Signed: _____ (Applicant) _____ (Date)

- I explained to the applicant the importance of completing this information.

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Signed: _____
(Insurance Producer) (Date)

Insurance Producer's Printed Name: _____]

[Choose the appropriate sentences depending on whether this is a direct mail or insurance producer sale.]

[In order for us to process your application, please return this signed statement to [name of company], along with your application.]

[My insurance producer has advised me that this policy does not appear to be suitable for me. However, I still want the company to consider my application.]

Signed: _____
(Applicant) (Date)

The company may contact you to verify your answers.

[When the Long-Term Care Insurance Personal Worksheet is furnished to employees and their spouses under employer group policies, the text from the heading "Disclosure Statement" to the end of the page may be removed.]

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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Section 2012.EXHIBIT J Potential Rate Increase Disclosure**Instructions:**

This form provides information to the applicant regarding premium rate schedules, rate schedule adjustments, potential rate revisions, and policyholder options in the event of a rate increase.

Insurers shall provide all of the following information to the applicant:**Long-Term Care Insurance****Potential Rate Increase Disclosure Form**

1. [Premium Rate] [Premium Rate Schedules]: [Premium rate] [Premium rate schedules] that [is] [are] applicable to you and that will be in effect until a request is made and [filed] [approved] for an increase [is] [are] [on the application] [\$].

2. The [premium] [premium rate schedule] for this policy [will be shown on the schedule page of] [will be attached to] your policy.

3. Rate Schedule Adjustments:

The company will provide a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.) (fill in the blank):

4. Potential Rate Revisions:

This policy is Guaranteed Renewable. This means that the rates for this product may be increased in the future. Your rates can NOT be increased due to your increasing age or declining health, but your rates may go up based on the experience of all policyholders with a policy similar to yours.

If you receive a premium rate or premium rate schedule increase in the future, you will be notified of the new premium amount and you will be able to exercise at least one of the following options:

- Pay the increased premium and continue your policy in force as is.

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- Reduce your policy benefits to a level such that your premiums will not increase.
- (Subject to state law minimum standards.)
- Exercise your nonforfeiture option if purchased. (This option is available for purchase for an additional premium.)
- Exercise your contingent nonforfeiture rights.* (This option may be available if you do not purchase a separate nonforfeiture option.)

*** Contingent Nonforfeiture**

If the premium rate for your policy goes up in the future and you didn't buy a nonforfeiture option, you may be eligible for contingent nonforfeiture. Here's how to tell if you are eligible:

You will keep some long-term care insurance coverage, if:

- Your premium after the increase exceeds your original premium by the percentage shown (or more) in the following table; and
- You lapse (not pay more premiums) within 120 days of the increase.

The amount of coverage (i.e., new lifetime maximum benefit amount) you will keep will equal the total amount of premiums you've paid since your policy was first issued. If you have already received benefits under the policy, so that the remaining maximum benefit amount is less than the total amount of premiums you've paid, the amount of coverage will be that remaining amount.

Except for this reduced lifetime maximum benefit amount, all other policy benefits will remain at the levels attained at the time of the lapse and will not increase thereafter.

Should you choose this Contingent Nonforfeiture option, your policy, with this reduced maximum benefit amount, will be considered "paid-up" with no further premiums due.

Example:

- You bought the policy at age 65 and paid the \$1,000 annual premium for 10 years, so you have paid a total of \$10,000 in premium.
- In the eleventh year, you receive a rate increase of 50%, or \$500 for a new annual premium of \$1,500, and you decide to lapse the policy (not pay any more premiums).
- Your paid-up policy benefits are \$10,000 (provided you have at least \$10,000 of benefits remaining under your policy.)

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<p style="text-align: center;">Contingent Nonforfeiture Cumulative Premium Increase over Initial Premium That qualifies for Contingent Nonforfeiture</p> <p style="text-align: center;">(Percentage increase is cumulative from date of original issue. It does NOT represent a one-time increase.)</p>	
Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54 and under	100-110%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%

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76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

[The following contingent nonforfeiture disclosure need only be included for those limited pay policies to which Section 2012.127(d)(3) and (d)(5) ~~of this Part~~ are applicable.]

In addition to the contingent nonforfeiture benefits described in this Exhibit, the following reduced paid-up contingent nonforfeiture benefit is an option in all policies that have a fixed or limited premium payment period, even if you selected a nonforfeiture benefit when you bought your policy. If both the reduced paid up benefit AND the contingent benefit described are triggered by the same rate increase, you can choose either of the two benefits.

You are eligible for the reduced paid-up contingent nonforfeiture benefit when all three conditions shown below are met:

1. The premium you are required to pay after the increase exceeds your original premium by the same percentage or more shown in the following chart:

Triggers for a Substantial Premium Increase

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Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

2. You stop paying your premiums within 120 days after the premium increase took effect; AND
3. The ratio of the number of months you already paid premiums is 40% or more than the number of months you originally agreed to pay.

If you exercise this option, your coverage will be converted to reduced paid-up status. That means there will be no additional premiums required. Your benefits will change in the following ways:

- a. The total lifetime amount of benefits your reduced paid-up policy will provide can be determined by multiplying 90% of the lifetime benefit amount at the time the policy becomes paid up by the ratio of the number of months you already paid premiums to the number of months you agreed to pay them.
- b. The daily benefit amounts you purchased will also be adjusted by the same ratio.

If you purchased lifetime benefits, only the daily benefit amounts you purchased will be adjusted by the applicable ratio.

Example:

- You bought the policy at age 65 with an annual premium payable for 10 years.
- In the sixth year, you receive a rate increase of 35% and you decide to stop paying premiums.
- Because you have already paid 50% of your total premium payments and that is more than the 40% ratio, your paid-up policy benefits are .45 (.90 times .50) times the total benefit amount that was in effect when you stopped paying your premiums. If you purchased inflation protection, it will not continue to apply to the benefits in the reduced paid-up policy.

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(Source: Amended at 41 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Accident and Health Reserves
- 2) Code Citation: 50 Ill. Adm. Code 2004
- 3) Section Number: 2004.10 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Sections 223 and 353a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223, 353a, and 401]
- 5) Effective Date of Rule: May 31, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 16504; December 30, 2016
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: 215 ILCS 5/223 was recently amended to establish the Valuation Manual as the source for valuation standards effective January 1, 2017. Accident and health reserve valuation standards will be maintained in the Valuation Manual. Part 2004 previously referenced the Accounting Practices and Procedures Manual published by the NAIC as the source for the Accident and Health reserving standards. The standards have been moved to the Valuation Manual by the

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NAIC. The changes to Part 2004 establish the Valuation Manual as the source for the reserving standards for accident and health insurance effective January 1, 2017 instead of the Accounting Practices and Procedures Manual.

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

Eric Anderson
Actuarial LAH Section
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/782-6284

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCEPART 2004
ACCIDENT AND HEALTH RESERVES

Section

2004.5	Authority
2004.7	Definitions
2004.10	Application, and Effective <u>Dates and Incorporations by Reference Date</u>
2004.20	Active Life Reserves – Individual Policies
2004.30	Active Life Reserves – Group Policies
2004.40	Claim Reserves – Present Value of Amounts Not Yet Due on Claims
2004.50	Policies Issued Prior to Operative Date of Section 353a

AUTHORITY: Implementing Sections 223 and 353a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223, 353a and 401].

SOURCE: Filed December 14, 1965, effective December 28, 1965; codified at 7 Ill. Reg. 4219; amended at 26 Ill. Reg. 3074, effective February 19, 2002; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 1, 2004; amended at 30 Ill. Reg. 19360, effective November 29, 2006; amended at 32 Ill. Reg. 13191, effective July 25, 2008; recodified from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-04 at 39 Ill. Reg. 2804; amended at 40 Ill. Reg. 211, effective December 31, 2015; amended at 40 Ill. Reg. 10471, effective July 22, 2016; amended at 41 Ill. Reg. 6920, effective May 31, 2017.

Section 2004.10 Application, ~~and~~ Effective Dates and Incorporations by Reference Date

- a) This Part applies to all companies transacting in this State the kinds of business enumerated in clause (b) of Class 1 and clause (a) of Class 2 of Section 4 of the Code ~~[215 ILCS 5/4]~~, and it applies to all accident and health policies for which reserve standards are prescribed under Section 353a of the Code. The original standards created in this Part applied through 2001. ~~From~~ Starting in 2002 through 2016, the applicable standards ~~were have been~~ those prescribed by the National Association of Insurance Commissioners (NAIC) in the Accounting Practices and Procedures Manual (APPM) ~~(2301 McGee Street, Suite 800, Kansas City MO~~

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~~64108-2662~~). Pursuant to Section 223 of the Code, starting in 2017, the applicable standards are those prescribed by the NAIC in the Valuation Manual (VM). The incorporations by reference of the APPM included in subsection (b) include no later amendments or editions.

b) Incorporations by Reference APPM Applicability Dates

1) National Association of Insurance Commissioners, 1100 Walnut Street, Suite 1500, Kansas City MO 64106-2277

A1) Policies issued and claims incurred on or after January 1, 2002 and before November 29, 2006 are subject to the standards prescribed in the March 2001 APPM.

B2) Policies issued and claims incurred on or after November 29, 2006 and before July 25, 2008 are subject to the standards prescribed in the March 2006 APPM.

C3) Policies issued and claims incurred on or after July 25, 2008 and before December 31, 2015 are subject to the standards prescribed in the March 2008 APPM.

D4) Policies issued and claims incurred on or after December 31, 2015 and before January 1, 2017 are subject to the standards prescribed in the March 2016 APPM.

E) Policies issued and claims incurred on or after January 1, 2017 are subject to the standards prescribed in the August 29, 2016 VM as directed in Section 223 of the Code.

2) The incorporations by reference stated in subsection (b)(1) include no later amendments or editions.

c) For claims incurred on or after January 1, 2002 and before January 1, 2017~~December 31, 2015~~, the insurer may elect to calculate reserves for all open claims using a more recent standard required by subsection (b), but once a more recent standard is elected, all future valuations must be on that basis.

(Source: Amended at 41 Ill. Reg. 6920, effective May 31, 2017)

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- 1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision
- 2) Code Citation: 23 Ill. Adm. Code 1
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1.77	Amendment
1.280	Amendment
1.420	Amendment
1.705	Amendment
1.720	Amendment
1.790	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6, 10-21.4a, 21B-5, 21B-20 and 24-24
- 5) Effective Date of Rules: June 2, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes, see 1.420(s)
- 8) A statement that a copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 1645; February 10, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 1.420, it was clarified that the KIDS contact person may be any individual the school district chooses but preferably-would be someone who works closely with Kindergarten teachers. Additionally, in this Section it was clarified that the KIDS contact person need only take the KIDS administrator training once. Finally that, two small grammatical changes were made in this Section for clarity.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No

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- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part 1 is the agency's general set of rules that govern the State Board's required supervision and evaluation of public school districts' compliance with law, rules, and policy. The rules also establish a process for identifying the recognition status awarded to a school district and its schools based on the extent of its compliance; that is, fully recognized, recognized pending further review, on probation, or nonrecognized. The Part informs school districts of the requirements that apply in specific areas of operations and programming, such as school governance, instructional programs, health and safety, staff qualifications, and academic standards.

This rulemaking incorporated a number of changes focusing on educator licensure. In particular, this rulemaking clarified:

- Regional Offices of Education and Intermediate Service Centers may access the Educator Licensure Information Service in order to ensure educators are properly licensed and endorsed or are qualified for a particular teaching assignment.
- Individuals working as paraprofessionals cannot discipline students.
- Head teachers serving more than 50% full-time employment in place of a principal must hold a professional educator license endorsed for supervision.
- Certain middle grade teachers first endorsed in CTE on or after February 1, 2018 do not need to meet the requirements for middle grades endorsements.
- Any individual who will serve as a substitute driver's education teacher must be driver's education.

Public school districts and charter schools are required to report to ISBE certain data annually on each student enrolled in their kindergarten programs. Starting with the 2017-2018 school year, public school districts and charter schools will have to fully implement KIDS. School districts are required to report on the following 14 State Readiness Measures:

- Language and Literacy Development
 - Communication and use of language (expressive)
 - Reciprocal communication and conversation
 - Comprehension of age-appropriate text
 - Phonological awareness
 - Letter and word knowledge

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- Cognition; Math
Classification
Number sense of quantity
Number sense of math operations
Shapes
- Approaches Toward Learning and Social and Emotional Development
Curiosity and initiative in learning
Self-control of feelings and behavior
Engagement and persistence
Relationships and social interactions with familiar adults
Relationships and social interactions with peers

These measures must be reported for kindergarteners in self-contained special education classrooms or alternative settings unless the special education team deems it inappropriate. The explanation must be included in the student's Individualized Education Program. Similarly, the measures must be reported for kindergarteners who are English Learners unless the Language and Literacy Development measures are deemed inappropriate and should be substituted with more appropriate non-required measures.

Reporting must be completed once a school year and done electronically through the KIDSTech rating system. All kindergarten teachers in public or charter schools must have completed ISBE's KIDS teacher training by the end of the 2016-17 school year.

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

Lindsay M. Bentivegna
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777-0001

217/782-5270
rules@isbe.net

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1

PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section

- 1.10 Public School Accountability Framework
- 1.20 Operational Requirements
- 1.30 State Assessment
- 1.40 Adequate Yearly Progress
- 1.50 Calculation of Participation Rate
- 1.60 Subgroups of Students; Inclusion of Relevant Scores
- 1.70 Additional Indicators for Adequate Yearly Progress
- 1.75 Student Information System
- 1.77 Educator Licensure Information System (ELIS)
- 1.79 School Report Card
- 1.80 Academic Early Warning and Watch Status
- 1.85 School and District Improvement Plans; Restructuring Plans
- 1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency under Title III
- 1.90 System of Rewards and Recognition – The Illinois Honor Roll
- 1.95 Appeals Procedure
- 1.97 Survey of Learning Conditions
- 1.100 Waiver and Modification of State Board Rules and School Code Mandates
- 1.110 Appeal Process under Section 22-60 of the School Code

SUBPART B: SCHOOL GOVERNANCE

Section

- 1.210 Approval of Providers of Training for School Board Members under Section 10-16a of the School Code
- 1.220 Duties of Superintendent (Repealed)
- 1.230 Board of Education and the School Code (Repealed)
- 1.240 Equal Opportunities for all Students

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- 1.242 Temporary Exclusion for Failure to Meet Minimum Academic or Attendance Standards
- 1.245 Waiver of School Fees
- 1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)
- 1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
- 1.270 Book and Material Selection (Repealed)
- 1.280 Discipline
- 1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
- 1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

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- 1.310 Administrative Qualifications and Responsibilities
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- 1.410 Determination of the Instructional Program
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- 1.610 Personnel Required to be Qualified
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- 1.705 Requirements for Supervisory and Administrative Staff
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- 1.720 Requirements for Teachers of Middle Grades
- 1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades 6 and Above through June 30, 2004
- 1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
- 1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
- 1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
- 1.740 Standards for Reading through June 30, 2004
- 1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
- 1.750 Standards for Media Services through June 30, 2004
- 1.755 Requirements for Library Information Specialists Beginning July 1, 2004
- 1.760 Standards for School Support Personnel Services
- 1.762 Supervision of Speech-Language Pathology Assistants
- 1.770 Standards for Special Education Personnel
- 1.780 Standards for Teachers in Bilingual Education Programs
- 1.781 Requirements for Bilingual Education Teachers in Prekindergarten, Kindergarten and any of Grades 1-12

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- 1.782 Requirements for Teachers of English as a Second Language in Prekindergarten,
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1.783 Requirements for Administrators of Bilingual Education Programs
1.790 Substitute Teacher

- 1.APPENDIX A Professional Staff Educator Licensure
1.APPENDIX B Certification Quick Reference Chart (Repealed)
1.APPENDIX C Glossary of Terms (Repealed)
1.APPENDIX D State Goals for Learning
1.APPENDIX E Evaluation Criteria – Student Performance and School Improvement
Determination (Repealed)
1.APPENDIX F Criteria for Determination – Student Performance and School
Improvement (Repealed)
1.APPENDIX G Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.44, 2-3.96, 2-3.159, 10-17a, 10-20.14, 10-21.4a, 10-22.43a, 21B-5, 21B-20, 22-30, 22-60, 24-24, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3 and 27-23.8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6, 2-3.25, 2-3.25g, 2-3.44, 2-3.96, 2-3.159, 10-17a, 10-20.14, 10-21.4a, 10-22.43a, 21B-5, 21B-20, 22-30, 22-60, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3 and 27-23.8].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27,

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2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006; amended at 30 Ill. Reg. 16338, effective September 26, 2006; amended at 30 Ill. Reg. 17416, effective October 23, 2006; amended at 31 Ill. Reg. 5116, effective March 16, 2007; amended at 31 Ill. Reg. 7135, effective April 25, 2007; amended at 31 Ill. Reg. 9897, effective June 26, 2007; amended at 32 Ill. Reg. 10229, effective June 30, 2008; amended at 33 Ill. Reg. 5448, effective March 24, 2009; amended at 33 Ill. Reg. 15193, effective October 20, 2009; amended at 34 Ill. Reg. 2959, effective February 18, 2010; emergency amendment at 34 Ill. Reg. 9533, effective June 24, 2010, for a maximum of 150 days; amended at 34 Ill. Reg. 17411, effective October 28, 2010; amended at 35 Ill. Reg. 1056, effective January 3, 2011; amended at 35 Ill. Reg. 2230, effective January 20, 2011; amended at 35 Ill. Reg. 12328, effective July 6, 2011; amended at 35 Ill. Reg. 16743, effective September 29, 2011; amended at 36 Ill. Reg. 5580, effective March 20, 2012; amended at 36 Ill. Reg. 8303, effective May 21, 2012; amended at 38 Ill. Reg. 6127, effective February 27, 2014; amended at 38 Ill. Reg. 11203, effective May 6, 2014; amended at 39 Ill. Reg. 2773, effective February 9, 2015; emergency amendment at 39 Ill. Reg. 12369, effective August 20, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 13411, effective September 24, 2015; amended at 40 Ill. Reg. 1900, effective January 6, 2016; amended at 40 Ill. Reg. 2990, effective January 27, 2016; amended at 40 Ill. Reg. 4929, effective March 2, 2016; amended at 40 Ill. Reg. 12276, effective August 9, 2016; emergency amendment at 40 Ill. Reg. 15957, effective November 18, 2016, for a maximum of 150 days; amended at 41 Ill. Reg. 126, effective December 27, 2016; amended at 41 Ill. Reg. 4430, effective April 5, 2017; amended at 41 Ill. Reg. 6924, effective June 2, 2017.

SUBPART A: RECOGNITION REQUIREMENTS

Section 1.77 Educator Licensure Information System (ELIS)

Each school district shall ensure that information on the qualifications of its professional and paraprofessional staff is recorded on the electronic data system maintained by the State Board of Education so that the State Board may complete federally required reports and collect data for the school report card required by Section 10-17a of the School Code [105 ILCS 5/10-17a]. (See Section 1.79 of this Part.) A district that lacks the technological capacity to participate in this electronic system shall be given an opportunity to demonstrate to the State Superintendent that this is the case, and the State Superintendent shall make available an alternative means that the district shall use in transmitting the required information. [Regional Offices of Education and Intermediate Service Centers, as agents of the State Board, may access ELIS to ensure an](#)

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educator is qualified to receive or hold a particular license and/or endorsement or to ensure the educator is qualified for a particular teaching assignment.

(Source: Amended at 41 Ill. Reg. 6924, effective June 2, 2017)

SUBPART B: SCHOOL GOVERNANCE

Section 1.280 Discipline

Section 24-24 of the School Code [105 ILCS 5/~~24-24~~] provides for teachers, other licensed educational employees (except for individuals employed as a holding an educator license with stipulations endorsed for paraprofessional educator) and persons providing a related service for or with respect to a student as determined by the board of education to maintain discipline in the schools.

- a) The board of education shall establish and maintain a parent-teacher advisory committee as provided in Section 10-20.14 of the School Code [~~105 ILCS 5/10-20.14~~].
- b) The board of education shall establish a policy on the administration of discipline in accordance with the requirements of Sections 10-20.14 and 24-24 of the School Code [~~105 ILCS 5/10-20.14 and 24-24~~] and disseminate that policy as provided in Section 10-20.14 of the School Code.
- c) Any use of isolated time out or physical restraint permitted by a board's policy shall conform to the requirements of Section 1.285 ~~of this Part~~. If isolated time out or physical restraint is to be permitted, the policy shall include:
 - 1) the circumstances under which isolated time out or physical restraint will be applied;
 - 2) a written procedure to be followed by staff in cases of isolated time out or physical restraint;
 - 3) designation of a school official who will be informed of incidents and maintain the documentation required pursuant to Section 1.285 ~~of this Part~~ when isolated time out or physical restraint is used;
 - 4) the process the district or other administrative entity will use to evaluate

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any incident that results in an injury that the affected student (or the responsible parent or guardian), staff member, or other individual identifies as serious;

- 5) a description of the alternative strategies that will be implemented when determined advisable pursuant to Section 1.285(f)(4) ~~of this Part~~; and
- 6) a description of the district's or other administrative entity's annual review of the use of isolated time out or physical restraint, which shall include at least:
 - A) the number of incidents involving the use of these interventions,
 - B) the location and duration of each incident,
 - C) identification of the staff members who were involved,
 - D) any injuries or property damage that occurred, and
 - E) the timeliness of parental notification and administrative review.
- d) In addition to, or as part of, its policy on the maintenance of discipline, each board of education shall adopt policies and procedures regarding the use of behavioral interventions for students with disabilities who require intervention. Each board's policies and procedures shall conform to the requirements of Section 14-8.05(c) of the School Code ~~[105 ILCS 5/14-8.05(e)]~~.

(Source: Amended at 41 Ill. Reg. 6924, effective June 2, 2017)

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section 1.420 Basic Standards

- a) Class schedules shall be maintained in the administrative office in each attendance center of a school district.
- b) Every school district shall have an organized plan for recording pupil progress and/or awarding credit, including credit for courses completed by correspondence, on line, or from other external sources, that can be disseminated to other schools

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within the State.

- c) Every school district shall:
 - 1) Provide curricula and staff inservice training to help eliminate unconstitutional and unlawful discrimination in schools and society. School districts shall utilize the resources of the community in achieving the stated objective of elimination of discrimination and to enrich the instructional program.
 - 2) Include in its instructional program concepts designed to improve students' understanding of and their relationships with individuals and groups of different ages, sexes, races, national origins, religions and socio-economic backgrounds.
- d) Boards shall adopt and implement a policy for the distribution of teaching assignments, including study hall and extra class duties and responsibilities.
- e) Every school system shall conduct supervisory and inservice programs for its professional staff. The staff shall be involved in planning, conducting and evaluating supervisory and inservice programs.
- f) Sections 10-19, 18-8.05, 18-12, and 18-12.5 of the School Code [105 ILCS ~~5/10-19, 18-8.05, 18-12, and 18-12.5~~] establish certain requirements regarding the school year and the school day. School districts shall observe these requirements when preparing their calendars and when calculating average daily attendance for the purpose of claiming general State financial aid.
 - 1) Section 18-8.05(F)(2)(c) of the School Code provides that, with the approval of the State Superintendent of Education, four or more clock-hours of instruction may be counted as a day of attendance when the regional superintendent certifies that, due to a condition beyond the control of the district, the district has been forced to use multiple sessions. The State Superintendent's approval will be granted when the district demonstrates that, due to a condition beyond the control of the district, its facilities are inadequate to house a program offering five clock-hours daily to all students.
 - A) The district superintendent's request to the State Superintendent

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shall be accompanied by an assurance that the local school board has approved the plan for multiple sessions, including the date of the meeting at which this occurred, and evidence of the approval of the responsible regional superintendent.

- B) Each request shall include a description of the circumstances that resulted in the need for multiple sessions; information on the buildings and grades affected; the intended beginning and ending dates for the multiple sessions; a plan for remedying the situation leading to the request; and a daily schedule showing that each student will be in class for at least four clock-hours.
 - C) Approval for multiple sessions shall be granted for the school year to which the request pertains. Each request for renewed approval shall conform to the requirements of subsections (f)(1)(A) and (B).
 - D) Students who are in attendance for at least 150 minutes of school work but fewer than 240 minutes may be counted for a half day of attendance. Students in attendance for fewer than 150 minutes of school work shall not be counted for purposes of calculating average daily attendance.
- 2) Section 18-8.05(F)(2)(h) of the School Code allows for a determination under rules of the State Board regarding the necessity for a second year's attendance at kindergarten for certain students so they may be included in a district's calculation of average daily attendance. Districts may count these students when they determine through an assessment of their individual educational development that a second year of kindergarten is warranted.
- 3) A school district shall be considered to have conducted a legal school day, which is eligible to be counted for General State Aid, when the following conditions are met during a work stoppage.
- A) Fifty percent or more of the district's students are in attendance, based on the average daily attendance during the most recent full month of attendance prior to the work stoppage.
 - B) Educational programs are available at all grade levels in the

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district, in accordance with the minimum standards set forth in this Part.

- C) All teachers hold educator licenses that are registered with the regional superintendent of schools for their county of employment. Other than substitute teachers, licensure appropriate to the grade level and subject areas of instruction is held by all teachers.
- 4) Sections 18-12 and 18-12.5 of the School Code set forth requirements for a school district to claim General State Aid in certain circumstances when one or more, but not all, of the district's school buildings are closed either for a full or partial day. A school district shall certify the reasons for the closure in an electronic format specified by the State Superintendent within 30 days from the date of the incident.
- A) If the certification is submitted under Section 18-12 of the School Code, it shall indicate whether instruction was provided to students using an e-learning day authorized under Section 10-20.56 of the School Code and Section 1.422 of this Part.
 - B) If the certification is submitted for reasons of a public health emergency under Section 18-12.5 of the School Code, it shall be accompanied by a signed statement from the local health department to the State Superintendent that includes:
 - i) the name of the building that is being recommended for closure;
 - ii) the specific public health emergency that warrants the closure; and
 - iii) the anticipated building closure dates recommended by the health department.
- 5) Attendance for General State Aid Purposes
- A) For purposes of determining average daily attendance on the district's General State Aid claim, students in full-day kindergarten and first grade may be counted for a full day of attendance only

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when they are in attendance for four or more clock hours of school work; provided, however, that students in attendance for more than two clock hours of school work but less than four clock hours may be counted for a half day of attendance. Students in attendance for fewer than two hours of school work shall not be counted for purposes of calculating average daily attendance.

- B) For purposes of determining average daily attendance on the district's General State Aid claim, students enrolled full time in grades 2 through 12 may be counted for a full day of attendance only when they are in attendance for five or more clock hours of school work; provided, however, that students in attendance for more than two and one-half clock hours of school work but less than five clock hours may be counted for a half day of attendance. Students in attendance for fewer than two and one-half hours of school work shall not be counted for purposes of calculating average daily attendance.
- C) For purposes of determining average daily attendance for General State Aid received under Sections 18-12 and 18-12.5 of the School Code, "immediately preceding school day" shall include school days in the previous school year in instances in which the building closure occurs before three or more days of instruction have been provided in the school year for which attendance is being counted.
- D) For the purposes of determining average daily attendance for General State Aid under Section 10-20.56 or 10-29 of the School Code ~~[105 ILCS 5/10-20.56 and 10-29]~~, a school district operating a remote educational program shall document the clock hours of instruction for each student, and make available to the State Superintendent ~~of Education~~ or his or her designee upon request, a written or online record of instructional time for each student enrolled in the program that provides sufficient evidence of the student's active participation in the program (e.g., log in and log off process, electronic monitoring, adult supervision, two-way interaction between teacher and student, video cam). "Clock hours of instruction" shall be calculated in accordance with Section 18-8.05(F)(2)(j) of the School Code ~~[105 ILCS 5/18-8.05(F)(2)(j)]~~.

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- g) Each school board shall annually prepare a calendar for the school term, specifying the opening and closing dates and providing a minimum term of at least 185 days to ensure 176 days of actual pupil attendance, computable under Section 18-8.05 of the School Code (see Section 10-19 of the School Code).
- h) Local boards of education shall establish and maintain kindergartens for the instruction of children (see Sections 10-20.19a and 10-22.18 of the School Code [~~105 ILCS 5/10-20.19a and 10-22.18~~]).
- 1) School districts may establish a kindergarten of either half-day or full-day duration. If the district establishes a full-day kindergarten, it must also provide a half-day kindergarten for those students whose parents or guardians request a half-day program.
 - 2) If a school district that establishes a full-day kindergarten also has 20 or more students whose parents request a half-day program, the district must schedule half-day classes, separate and apart from full-day classes, for those children. If there are fewer than 20 children whose parents request a half-day program, those students may be enrolled in either the morning or afternoon session of a full-day program provided that the following conditions are met.
 - A) Distinctive curriculum plans for the half-day and full-day kindergarten programs must be developed by the school district, made available to parents to assist the parents in selecting the appropriate program for their child, and maintained in district files.
 - B) A common core of developmental, readiness and academic activities must be made available to all kindergarten students in the district regardless of the amount of time they attend school.
 - C) All support services (e.g., health counseling and transportation) provided by the district must be equally available to full-day and half-day students.
 - 3) Each public school district, including charter schools, offering a kindergarten program, whether full-day or half-day, shall report to the State Board of Education on the 14 State Readiness Measures listed in subsection (h)(3)(A) administer the Illinois Kindergarten Individual

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~~Development Survey (KIDS)~~ annually ~~onto~~ each student enrolled in kindergarten, except as otherwise provided under this subsection (h)(3). The Kindergarten Individual Development Survey (KIDS) shall be available to school districts for this purpose. Data for each student, based on local instruction and assessment practices, shall be reported through the KIDSTech rating system. A school district is not obligated to administer KIDS in any school year in which the State does not provide funding sufficient for the cost of ~~reporting the test administration~~ or access to professional development for teachers and administrators.

- A) For the purpose of this subsection (h)(3), the 14 State Readiness Measures shall address "measure of school readiness" addresses, at a minimum, ~~the five essential school readiness domains of:~~
- i) language and literacy development;
 - communication and use of language (Expressive);
 - reciprocal communication and conversation;
 - comprehension of age-appropriate text;
 - phonological awareness;
 - letter and word knowledge;
 - ii) cognition; ~~math; and general knowledge (to at least include mathematics);~~
 - classification;
 - number sense of quantity;
 - number sense of math operations;
 - shapes; and
 - iii) approaches toward learning and social and emotional development;

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- curiosity and initiative in learning;
 - self-control of feelings and behavior;
 - engagement and persistence;
 - relationships and social interactions with familiar adults;
 - relationships and social interactions with peers.
- iv) ~~physical well-being and motor development; and~~
- v) ~~social and emotional development.~~
- B) Each school district shall report electronically the results of the observations conducted and evidence collected ~~once as part of KIDS twice~~ each school year (i.e., after 40 days of enrollment beginning with the first day of official attendance after the start of the school year and 170 days after the start of the school year). The data required under this subsection (h)(3)(B) shall be reported for any student who was enrolled in a kindergarten classroom at least 30 days before the date on which the data is required to be reported.
- C) By August 1 of each school year~~October 15, 2015~~, each school district shall provide to the State Superintendent ~~of Education, the name, title, email address and telephone number for the district staff personnel who will serve as the KIDS contact persons,~~ using a form prescribed for this purpose, ~~the information required under this subsection (h)(3)(C).~~ Staff personnel serving as the KIDS contact person can be anyone that the district chooses, but preferably is someone who is working closely with the kindergarten teachers and can act as a liaison between SBE and the kindergarten teachers. This can include teachers and administrators.

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- i) ~~The name, title, email address and telephone number for the administrator who the school district designates to serve as the KIDS coordinator. The person so designated shall hold a professional educator license endorsed in an administrative field pursuant to 23 Ill. Adm. Code 25. Subpart E (Requirements for Licensure of Administrative and Supervisory Staff) or for supervision pursuant to 23 Ill. Adm. Code 25.497 (Supervisory Endorsements).~~
 - ii) ~~The current status of the school district's implementation of KIDS, as applicable.~~
 - iii) ~~Information regarding the school district's use of assessments other than KIDS on a districtwide basis that measure school readiness, as that term is defined in subsection (h)(3)(A).~~
- D) ~~Each KIDS contact person~~ordinator~~ designated under subsection (h)(3)(C) shall participate in, at a minimum, a KIDS administrator~~orientation~~ training sponsored by the State Board no later than 30 days after the beginning of the school year~~of Education during the 2015-16 school year. A KIDS contact person need only take the KIDS administrator training once.~~~~
- E) ~~For the 2016-17 school year~~All teachers teaching in a public or charter school classroom containing kindergarten students shall complete or have had completed the KIDS teacher training sponsored by the State Board.~~only, a school district may choose to conduct a limited implementation of KIDS or a full implementation of KIDS. A school district choosing to conduct a limited implementation shall notify the State Superintendent of its intent by May 1, 2016. School districts that fail to submit the required notification by May 1, 2016 shall fully implement KIDS, as required under subsection (h)(3)(F). For the purposes of this subsection (h)(3)(E), "limited implementation" shall be either:~~
- i) ~~reporting the data required under subsection (h)(3)(B) for each student enrolled in kindergarten that at least addresses~~

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~~the domains of social and emotional development, language and literacy development, cognitive development for mathematics and, additionally for English learners, English language development; or~~

~~ii) reporting the data required under subsection (h)(3)(B) for at least 30 percent of students enrolled in each kindergarten classroom for each domain listed in subsection (h)(3)(A) and, additionally for English learners, English language development.~~

F) Beginning in the 2017-18 school year and thereafter, a public school district, including charter schools, shall ~~administer the KIDS to, and~~ report the data required under subsection (h)(3)(B) for; each student enrolled in kindergarten.

G) The 14 State Readiness Measures shall be reported for kindergarten children taught in a self-contained special education classroom or an alternative setting unless a special education team deems it inappropriate, at which time the justification for this decision must be recorded in the Individualized Education Program.

H) The 14 State Readiness Measures shall be reported for kindergarten children who are English learners unless the school district deems that required Language and Literacy Measures should be substituted with more appropriate non-required measures.

i) Career Education

1) The educational system shall provide students with opportunities to prepare themselves for entry into the world of work.

2) Every district shall initiate a Career Awareness and Exploration Program that should enable students to make more meaningful and informed career decisions. This program should be available at all grade levels.

j) Co-Curricular Activities

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- 1) Programs for extra classroom activities shall provide opportunities for all students.
 - 2) The desires of the student body in the area of co-curricular activities shall be of critical importance. At all times, activities of this nature shall be carefully supervised by a school-approved sponsor.
- k) Consumer Education and Protection
- 1) A program in consumer education shall include at least the topics required by Section 27-12.1 of the School Code ~~[105 ILCS 5/27-12.1]~~.
 - 2) The superintendent of each unit or high school district shall maintain evidence showing that each student has received adequate instruction in consumer education prior to the completion of grade 12. Consumer education may be included in course content of other courses, or it may be taught as a separate required course.
 - 3) The minimal time allocation shall not be less than nine weeks or the equivalent for grades 9-12.
 - 4) Teachers instructing in consumer education courses shall hold educator licensure valid for the grade levels taught and have completed at least three semester hours in consumer education courses.
- l) Conservation of Natural Resources
- Each district shall provide instruction on *current problems and needs in the conservation of natural resources, including, but not limited to, air pollution, water pollution, waste reduction and recycling, the effect of excessive use of pesticides, preservation of wilderness areas, forest management, protection of wildlife, and humane care of domestic animals* (Section 27-13.1 of the School Code [105 ILCS 5/27-13.1]).
- m) Every school district has the responsibility to prepare students for full citizenship. To this end each school district should encourage student discussion and communication in areas of local, State, national and international concern.
- n) Health Education

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- 1) Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act [105 ILCS 110].
 - A) There is no specific time requirement for grades K-6; however, health education shall be a part of the formal regular instructional program at each grade level.
 - B) The minimal time allocation shall not be less than one semester or equivalent during the middle or junior high experience.
 - C) The minimal time allocation shall not be less than one semester or equivalent during the secondary school experience.
 - D) If health education is offered in conjunction with another course on a "block of time" basis in a middle school, a junior high school, or a high school, instruction may be offered in any combination of the grade levels in the school, provided that the total time devoted to health education is the equivalent of one full semester's work.
- 2) Nothing in this Section shall be construed as requiring or preventing the establishment of classes or courses in comprehensive sex education or family life education as authorized by Sections 27-9.1 and 27-9.2 of the School Code ~~[105 ILCS 5/27-9.1 and 27-9.2]~~.
- o) **Library Media Programs**

Each school district shall provide a program of library media services for the students in each of its schools. Each district's program shall meet the requirements of this subsection (o).

 - 1) **General**

The program shall include an organized collection of resources that circulate to students and staff in order to supplement classroom instruction, foster reading for pleasure, enhance information literacy, and support research, as appropriate to students of all abilities in the grade levels served. A district that relies solely upon the collection of a local public library shall maintain evidence that students receive instruction, direction, or assistance in locating and using resources that are applicable

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to these purposes from an individual who is qualified under Section 1.755 and who is acting on behalf of the school district.

- 2) **Financial Resources**
Each district's annual budget shall include an identifiable allocation for resources and supplies for the program, except that a unit district serving fewer than 400 students or an elementary or high school district serving fewer than 200 students may demonstrate that it is meeting its students' needs through alternate means that the district has determined are adequate in light of local circumstances.
- 3) **Facilities**
If there is no single location within a particular attendance center that is specifically devoted to a library media center, such as where classroom collections have been established instead, the district shall ensure that equitable access to library media resources is made available to students in all the grade levels served. If students' only access to library media resources is achieved by visiting a location outside their attendance center, the district shall maintain records demonstrating that all students' regular schedules include time for this purpose.
- 4) **Staff**
Nothing in this subsection (o)(4) shall be construed as prohibiting districts or schools from sharing the services of individuals qualified under Section 1.755, and nothing in this subsection (o) shall be construed as permitting an individual who is not qualified as a library information specialist to assume that role. Each district shall assign responsibility for overall direction of its program of library media services to an employee who holds a professional educator license endorsed for a teaching or an administrative field. Except as otherwise provided in subsection (o)(4)(A), the individual to whom this responsibility is assigned shall meet the requirements of Section 1.755, and the individual to whom this responsibility is assigned shall not provide the services described in Section 1.755 unless he or she meets the requirements of that Section.
 - A) In the event that no employee of the district holds any of the qualifications enumerated in Section 1.755, the individual to whom direction of the program is assigned shall be required to participate annually in professional development consisting of:

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- i) undergraduate or graduate coursework in library science offered by a regionally accredited institution of higher education; or
 - ii) one or more workshops, seminars, conferences, institutes, symposia, or other similar training events that are offered by the Illinois State Library, a regional library system, or another professional librarians' organization; or
 - iii) one or more "library academies" if these are made available by or at the direction of the State Superintendent of Education.
- B) A district that is otherwise unable to fulfill the requirements of this subsection (o)(4) shall ensure that the overall direction of the library media program (e.g., selection and organization of materials, provision of instruction in information and technology literacy, structuring the work of library paraprofessionals) is accomplished with the advice of an individual who is qualified pursuant to Section 1.755.
- p) **Physical Education**
Appropriate activity related to physical education shall be required of all students each day unless otherwise permitted by Section 27-6 of the School Code ~~105 ILCS 5/27-6~~. The time schedule shall compare favorably with other courses in the curriculum. Safety education as it relates to the physical education program should be incorporated. See Section 1.425 for additional requirements that apply to the provision of physical education instruction.
- q) **School Support Personnel Services**
To assure provision of School Support Personnel Services, the local district shall conduct a comprehensive needs assessment to determine the scope of the needs in the areas of:
 - 1) Guidance and Counseling Needs;
 - 2) Psychological Needs;

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- 3) Social Work Needs;
 - 4) Health Needs.
- r) Social Sciences and History
Each school system shall provide history and social sciences courses that do the following:
- 1) analyze the principles of representative government, the Constitutions of both the United States and the State of Illinois, the proper use of the flag, and how these concepts have related and currently do relate in actual practice in the world (see Section 27-21 of the School Code ~~[105 ILCS 5/27-21]~~);
 - 2) *include in the teaching of United States history the role and contributions of ethnic groups in the history of this country and the State* (Section 27-21 of the School Code);
 - 3) *include in the teaching of United States history the role of labor unions and their interaction with government in achieving the goals of a mixed free-enterprise system* (Section 27-21 of the School Code);
 - 4) *include the study of that period in world history known as the Holocaust* (Section 27-20.3 of the School Code ~~[105 ILCS 5/27-20.3]~~);
 - 5) *include the study of the events of Black history, including the individual contributions of African-Americans and their collective socio-economic struggles* (Section 27-20.4 of the School Code ~~[105 ILCS 5/27-20.4]~~);
 - 6) *include the study of the events of women's history in America, including individual contributions and women's struggles for the right to vote and for equal treatment* (Section 27-20.5 of the School Code ~~[105 ILCS 5/27-20.5]~~); and
 - 7) *include the study of the events related to the forceful removal and illegal deportation of Mexican-American U.S. citizens during the Great Depression* (Section 27-21 of the School Code).
- s) Protective eye devices shall be provided to and worn by all students, teachers, and

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visitors when participating in or observing dangerous career and technical education courses and chemical-physical courses of laboratories as specified in Section 1 of the Eye Protection in School Act [105 ILCS 115/1]. The eye protective devices shall meet the nationally accepted standards set forth in "American National Standard Practice for Occupational and Educational Personal Eye and Face Protection Devices", ANSI/ISEA Z87.1-2010, issued by the American National Standards Institute, Inc., 1899 L Street, NW, 11th Floor, Washington, D.C. 20036. No later editions or amendments to these standards are incorporated.

- t) Each school district shall provide instruction as required by Sections 27-3.5, 27-13.2, 27-13.3, 27-23.3, 27-23.4 and 27-23.8 of the School Code ~~[105 ILCS 5/27-3.5, 27-13.2, 27-13.3, 27-23.3, 27-23.4 and 27-23.8]~~.

(Source: Amended at 41 Ill. Reg. 6924, effective June 2, 2017)

SUBPART G: STAFF QUALIFICATIONS

Section 1.705 Requirements for Supervisory and Administrative Staff

Requirements for the receipt of the endorsements specified in this Section shall be as set forth in 23 Ill. Adm. Code 25 (Educator Licensure).

- a) Each district superintendent shall hold a professional educator license with a superintendent endorsement.
- b) Each principal or assistant principal shall hold a professional educator license with a general administrative, ~~or~~ principal or superintendent endorsement, except that a head teacher serving for more than 50% full-time employment in place of a principal as permitted by Section 10-21.4a of the School Code [105 ILCS ~~5/10-21.4a~~] shall hold a professional educator license endorsed for supervision.
- c) Each assistant superintendent shall hold a professional educator license with a general administrative, principal, director of special education or superintendent endorsement.
- d) Each general administrator (e.g., director, assistant director, coordinator or general supervisor) in general education shall hold a professional educator license

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with a general supervisory, general administrative, principal or superintendent endorsement.

- e) Each head of a general education department or supervisor for a specific subject shall hold either:
 - 1) a professional educator license with a general supervisory, general administrative, principal or superintendent endorsement or teacher leader endorsement issued pursuant to 23 Ill. Adm. Code 25.32 (Teacher Leader Endorsement); or
 - 2) a professional educator license endorsed for supervision in the area supervised (see 23 Ill. Adm. Code 25.497 (Supervisory Endorsements)).
- f) Each supervisory dean shall hold a professional educator license with a general supervisory, general administrative, director of special education, principal or superintendent endorsement, or teacher leader endorsement issued pursuant to 23 Ill. Adm. Code 25.32 (Teacher Leader Endorsement).
- g) Each dean of students shall hold:
 - 1) a professional educator license with a general supervisory, general administrative, director of special education, principal or superintendent endorsement; or
 - 2) a professional educator license endorsed in a teaching field (and for supervision if the holder suspends students pursuant to Section 10-22.6 of the School Code); or
 - 3) a professional educator license endorsed in a school support personnel field other than school nursing (and for supervision if the holder disciplines or suspends students).
- h) Each special education director or assistant director shall meet the requirements of 23 Ill. Adm. Code 226.800(g) (Personnel Required to be Qualified) and hold a professional educator license endorsed for director of special education in accordance with 23 Ill. Adm. Code 25.365 (Endorsement for Director of Special Education).

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- i) Each special education supervisor shall hold either:
 - 1) a professional educator license with a general supervisory, general administrative, director of special education, principal or superintendent endorsement and teaching qualifications in each area supervised; or
 - 2) a professional educator license endorsed for each area supervised and for supervision (see 23 Ill. Adm. Code 25.497 (Supervisory Endorsements)).
- j) Each supervisor of more than one school support personnel area shall hold either:
 - 1) a professional educator license and a general administrative, principal or superintendent endorsement; or
 - 2) a professional educator license endorsed for school support personnel and supervision in each field supervised.
- k) Each supervisor of one school support personnel area shall hold:
 - 1) a professional educator license with a general supervisory, general administrative, director of special education, principal or superintendent endorsement; or
 - 2) a professional educator license endorsed for school support personnel in the field supervised and for supervision; or
 - 3) a professional educator license endorsed for speech-language pathology teaching and for supervision (if applicable).
- l) Each director of an area vocational center and each director or supervisor of more than one field in career and technical education (including regional system directors) shall hold a professional educator license with a general administrative, principal or superintendent endorsement and have teaching qualifications in one of the five occupational areas and 2,000 hours of work experience outside the field of education.
- m) Each supervisor of one field in career and technical education shall hold either:

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- 1) a professional educator license with a general supervisory, general administrative, principal or superintendent endorsement and teaching qualifications in one field of career and technical education, including 2,000 hours of work experience in the specific field outside of education; or
 - 2) teaching qualifications in the specific field supervised, including 2,000 hours of work experience in the specific field outside of education, and a professional educator license with a supervisory endorsement.
- n) Each administrator in a bilingual education program shall hold a valid professional educator license with a general administrative, principal, superintendent or supervisory endorsement issued in accordance with the applicable provisions of 23 Ill. Adm. Code 25 and this Part and meet the applicable requirements of Section 1.783 ~~of this Part~~.
 - o) Each chief school business official shall hold a professional educator license with a chief school business official endorsement or an educator license with stipulations with a chief school business official endorsement.

(Source: Amended at 41 Ill. Reg. 6924, effective June 2, 2017)

Section 1.720 Requirements for Teachers of Middle Grades

The provisions of subsections (a), (b) and (d) shall be subject to the exception stated in subsection (e) with respect to any school in which the instructional format for any of grades 6 through 8 is being changed from a self-contained to a departmentalized configuration. Additional requirements shall apply to middle-grades assignments and endorsements beginning February 1, 2012 (see subsection (f)).

- a) The requirements of this Section apply to teachers first employed after September 1, 1973, in departmentalized grades 6 through 8 ("middle-grade teachers"). Teachers first employed in grades 6 through 8 prior to September 1, 1973, or employed in non-departmentalized grades 6 through 8 and who hold a kindergarten-through-grade-9 elementary education endorsement issued by September 1, 2019, are subject to the requirements of Section 1.710.
- b) Until February 1, 2018, to qualify as a middle-grade teacher, the teacher must have completed either the coursework identified in subsection (b)(1) prior to July

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1, 1997 or completed the coursework identified in subsection (b)(2). The "major teaching assignment" is the subject taught for more time than any other subject. In mathematics and reading and for library information specialists, specific coursework must be included among the 18 semester hours to be earned; see subsections (b)(3), (4) and (5).

- 1) 18 semester hours in the content area of major teaching assignment (e.g., language arts, mathematics, general science, social science, music), unless the subject taught is a foreign language and Section 25.100 of the State Board's rules for Educator Licensure (23 Ill. Adm. Code 25) applies. When a teacher is assigned to deliver instruction in two or more areas (e.g., English and social science or mathematics and science), the teacher shall meet the requirements of this subsection (b)(1) for the major teaching assignment and have no fewer than 5 semester hours in each other subject taught.
- 2) 18 semester hours in the content area of major teaching assignment (e.g., language arts, mathematics, general science, social science, music), unless the subject taught is a foreign language and Section 25.100 of the State Board's rules for Educator Licensure applies. When a middle-grade teacher is assigned to deliver instruction in two or more areas (e.g., English and social science or mathematics and science), the teacher shall meet the requirements of this subsection (b)(2) for the major teaching assignment and have no fewer than 6 semester hours in each other subject taught. In addition:
 - A) 3 semester hours of coursework, approved by the college of education or other institutional unit governing teacher education, that includes middle-grade philosophy, middle-grade curriculum and instruction, and instructional methods for designing and teaching developmentally appropriate programs (i.e., addressing the cognitive, emotional and physical development of each child) in the middle grades, including content area (e.g., science, social sciences) reading instruction.
 - B) 3 semester hours of coursework, approved by the college of education or other institutional unit governing teacher education, that includes educational psychology focusing on the developmental characteristics of early adolescents, the nature and

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needs of early adolescents, and the role of the middle-grade teacher in assessment, coordination and referral of students to health and social services.

- 3) **Mathematics**
For teachers of mathematics in grades 6 through 8 first employed on or after September 1, 1985, the required 18 semester hours in the field shall include 3 semester hours in the methods of teaching mathematics in those grades and 15 semester hours to be selected from four of the following areas:
 - A) Math content courses for elementary teachers;
 - B) Calculus;
 - C) Modern algebra or number theory;
 - D) Geometry;
 - E) Computer science;
 - F) Probability and statistics; and
 - G) History of mathematics.

- 4) **Reading**
For major assignments in reading in any of departmentalized grades 6 through 8:
 - A) persons first employed on or after September 1, 1978 but before July 1, 2004 are required to have completed the 18 semester hours described in Section 1.740;
 - B) persons first employed on or after July 1, 2004 shall be required to have completed either the 18 semester hours described in Section 1.740 or 18 semester hours in the field that include a practicum and address at least five of the six topics listed at 23 Ill. Adm. Code 25.100(g), provided that:

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- i) the individual completes all the required coursework on or before June 30, 2006; or
 - ii) the individual applies for the reading endorsement on or before June 30, 2006 and completes any coursework identified on a related deficiency statement no later than one year after the date of that statement; and
- C) new requirements for an endorsement in this field apply to persons who have not met the requirements of either subsection (b)(4)(A) or (B); see also 23 Ill. Adm. Code 25.100(g) and Section 1.745 of this Part.
- 5) **Library Information Specialist**
Persons first employed on or after September 1, 1978 as media professionals or library information specialists serving any of grades 6 through 8 are required to have completed 18 semester hours in the field that address administration, organization (cataloging and classification), reference, and selection of materials, provided that the individual completes all the required coursework on or before June 30, 2006, or has applied for the endorsement on or before June 30, 2006, and completes any coursework identified on a related deficiency statement no later than one year after the date of that statement. New requirements for an endorsement in this field apply to persons who have not qualified on the basis of 18 semester hours; see also 23 Ill. Adm. Code 25.100 and Section 1.755. The provisions of subsection (b)(2) notwithstanding, no individual who has completed only 9 semester hours in the field may serve in this capacity.
- c) On or after February 1, 2018, any individual first assigned to teach in grade 7 or 8, whether departmentalized or self-contained, or in departmentalized grade 6 shall meet the requirements of 23 Ill. Adm. Code 25.99 (Endorsement for the Middle Grades (Grades 5 through 8)) for the major teaching assignment and have no fewer than 6 semester hours in each other subject taught, subject to the exception stated in subsection (a) for assignment in self-contained grades 6 through 8. The requirements of this subsection (c) do not apply to individuals who are first endorsed in agricultural education; business, marketing, and computer education; business, marketing, and computer education (computer programming); computer applications; computer science; family and consumer

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sciences; health science technology; and technology education on or after February 1, 2018.

- d) No individual may be assigned to teach in departmentalized grades 6 through 8 unless he or she holds a professional educator license that is endorsed and valid for the grade level or levels to be taught and:
- 1) holds a middle-grades endorsement applicable to the content area; or
 - 2) meets the relevant requirements of this Section; or
 - 3) met the requirements of this Section or their predecessor requirements at a time when they were applicable, as confirmed by the employing district's verification of the individual's qualifications; or
 - 4) is assigned pursuant to Section 1.745(b)(3) or 1.755(c); or
 - 5) has received an elementary endorsement issued pursuant to 23 Ill. Adm. Code 25.97 (Endorsement for Elementary Education (Grades 1 through 6)) and has met the relevant requirements of subsection (b) of this Section on or before January 31, 2018.
- e) A school district may also assign certain other teachers to departmentalized positions in any of grades 6 through 8 for the 2009-10 school year and thereafter as described in this subsection (e). The provisions of this subsection (e) are no longer applicable starting February 1, 2018; however, any teachers assigned to departmentalized positions in grades 6 through 8 under the provisions of this subsection (e) before that date shall not be affected.
- 1) A teacher who was employed in the district during the school year immediately preceding the year when the instructional format in that teacher's school is changed to a departmentalized configuration and who was appropriately licensed for his or her position but does not meet the requirements of subsection (b) or (c) may be assigned to a departmentalized position in any of grades 6 through 8 for a period not to exceed three school years, provided that he or she has already completed at least 9 semester hours of coursework in the content area of the major teaching assignment. If specific coursework is required for the major teaching assignment under subsection (b), the teacher shall have

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completed 9 semester hours that will count toward an endorsement in that content area.

- 2) The school district shall notify the responsible regional superintendent of schools of all assignments made pursuant to this subsection (e) no more than 30 days after they occur. Further, the school district shall maintain on file for each teacher assigned in accordance with this subsection (e) a plan that:
 - A) includes a statement of intent signed by the individual, stipulating that he or she will complete all requirements for the middle-grades endorsement in the content area of his or her major teaching assignment;
 - B) provides a list of the coursework and experiences that the individual will complete in order to qualify; and
 - C) identifies the institution of higher education where the individual will complete the requirements.
 - 3) No individual may be assigned for more than three school years without attaining the relevant endorsement, and no individual may be assigned for a third school year unless he or she has completed the six semester hours required under subsection (b)(2).
 - 4) If an individual is assigned to deliver instruction in two or more content areas, he or she shall have completed no fewer than 9 semester hours in each content area. If subsection (b) requires specific coursework for any of the content areas taught, the teacher shall have completed 9 semester hours that will count toward an endorsement in that content area.
- f) **New Requirements Applicable in 2012**
All coursework that forms part of an application for a middle-grades endorsement received on or after February 1, 2012 or that is used in determining the eligibility of an individual to be first assigned to teach a particular subject in the middle grades on or after that date, must have been passed with a grade no lower than "C" or equivalent in order to be counted towards fulfillment of the applicable requirements.

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(Source: Amended at 41 Ill. Reg. 6924, effective June 2, 2017)

Section 1.790 Substitute Teacher

- a) To serve as a substitute teacher, a person shall hold a valid substitute teaching license issued pursuant to Section 21B-20(3) of the School Code [105 ILCS ~~5/21B-20(3)~~].
- 1) Any individual who holds a valid and active Illinois educator license and at least a bachelor's degree may serve as a substitute teacher without having to also hold the substitute teaching license.
 - 2) Any individual who may serve as a substitute teacher for driver's education must be endorsed for driver's education pursuant to 23 Ill. Adm. Code 25.100(k).
- b) A teacher holding a substitute teaching license may teach only in the place of a licensed teacher who is under contract with the employing board. (See Section 21B-20(3) of the School Code.)
- c) In accordance with Section 21B-20(3) of the School Code, there is no limit on the number of days that a substitute teacher may teach except that:
- 1) A person who holds only a substitute teaching license may teach for no longer than 90 paid school days for any one licensed teacher who is under contract with the school district in any one school term.
 - 2) A person who holds a professional educator license or an educator license with stipulations endorsed for a teaching field may teach for no longer than 120 paid school days for any one licensed teacher who is under contract with the school district.
- d) A school district may employ a substitute teacher to fill a position when there is no licensed teacher under contract with the school district only in an emergency situation, as defined in Section 21B-20(3) of the School Code. Any substitute teacher hired under this subsection (d) shall work no more than 30 calendar days per each vacant position.

(Source: Amended at 41 Ill. Reg. 6924, effective June 2, 2017)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Standards for Endorsements in Elementary Education
- 2) Code Citation: 23 Ill. Adm. Code 20
- 3) Section Number: 20.10 Adopted Action:
Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 21B
- 5) Effective Date of Rule: June 2, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A statement that a copy of the adopted rule including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 1680; February 10, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and final Version: In subsection 20.10(c), SBE clarified being entitled for an endorsement means successfully completing the approved programs, the basic skill and content area testing, and practica that are involved.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rule replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Currently, licensure candidates who are enrolled in an elementary education program after October 1, 2015 must complete that program by September 1, 2018 and obtain their elementary education endorsement by September 1, 2019.

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This rulemaking changed the current requirements to state the candidate must be entitled for the endorsement by September 1, 2019. This change will ensure all candidates meet the stated deadline while providing Educator Effectiveness with the flexibility to properly evaluate all applications.

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

Lindsay M. Bentivegna
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777-0001

217/782-5270
rules@isbe.net

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNELPART 20
STANDARDS FOR ENDORSEMENTS IN ELEMENTARY EDUCATION

SUBPART A: GENERAL

Section
20.10 Purpose and Effective Dates of Standards

SUBPART B: STANDARDS

Section
20.100 General Standards
20.110 Literacy Standards for Elementary Teachers
20.120 Mathematics Standards for Elementary Teachers
20.130 Dispositions

AUTHORITY: Implementing Article 21B and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21B and 2-3.6].

SOURCE: Adopted at 37 Ill. Reg. 16664, effective October 2, 2013; amended at 40 Ill. Reg. 12342, effective August 9, 2016; amended at 41 Ill. Reg. 6958, effective June 2, 2017.

SUBPART A: GENERAL

Section 20.10 Purpose and Effective Dates of Standards

- a) This Part establishes the standards that, together with the standards set forth in Standards for All Illinois Teachers (23 Ill. Adm. Code 24), shall apply to the issuance of endorsements for elementary education (i.e., grades 1 through 6) on professional educator licenses pursuant to Article 21B of the School Code [105 ILCS 5/~~Art. 21B~~]. The standards set forth in this Part shall apply both to candidates for an endorsement in elementary education and to the programs that prepare them. That is:

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- 1) beginning July 1, 2013, approval of any teacher preparation program or course of study in elementary education, whether currently approved or newly proposed, pursuant to the State Board's rules for Educator Licensure (23 Ill. Adm. Code 25, Subpart C) shall be based on the congruence of that program's or course's content with the standards identified in this Part;
 - 2) on or before February 1, 2017, the examinations required for issuance of an endorsement in elementary education shall be based on the standards identified in this Part;
 - 3) on or before February 1, 2017, each elementary education program seeking approval for the first time or re-approval of an existing program shall work in consultation with one or more community colleges to ensure the articulation of coursework between the two institutions and, as applicable, the alignment of community college coursework relevant to elementary education to the standards set forth in this Part.
- b) In addition to demonstrating congruence with the standards set forth in this Part, each elementary education program or course of study shall meet the requirements set forth in 23 Ill. Adm. Code 25.97 (Endorsement for Elementary Education (Grades 1 through 6)).
- c) Beginning October 1, 2015, no candidate shall be admitted to an elementary education program that has not been approved under this Part. Any candidate who is enrolled in an elementary program not approved under this Part shall complete the program on or before September 1, 2018 and be entitled (i.e., receive verification by the candidate's institution of higher education that the candidate has completed an approved elementary education program and has met the testing and experience requirements for licensure) for that endorsement~~and have the elementary education endorsement issued~~ by September 1, 2019. Applicants undergoing the State Board's transcript evaluation process must submit their application for the endorsement by September 1, 2019.

(Source: Amended at 41 Ill. Reg. 6958, effective June 2, 2017)

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- 1) Heading of the Part: Standards for Endorsements in Early Childhood Education and in Elementary Education
- 2) Code Citation: 23 Ill. Adm. Code 26
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
26.100	Amendment
26.300	Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 21B
- 5) Effective Date of Rules: June 2, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A statement that a copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 1684; February 10, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In subsection 26.100(c), SBE clarified being entitled for an endorsement means successfully completing the approved programs, the basic skill and content area testing, and practica that are involved.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Currently, licensure candidates who are enrolled in an elementary education program after October 1, 2015 must complete that program by

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September 1, 2018 and obtain their elementary education endorsement by September 1, 2019.

This rulemaking changed the current requirements to state the candidate must be entitled for the endorsement by September 1, 2020. This change will ensure all candidates meet the stated deadline while providing Educator Effectiveness with the flexibility to properly evaluate all applications.

Additionally, this rulemaking clarified that any applicant seeking an elementary or early childhood endorsement undergoing the transcript evaluation process must submit their application by September 1, 2019.

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

Lindsay M. Bentivegna
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777-0001

217/782-5270
rules@isbe.net

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 26

STANDARDS FOR ENDORSEMENTS IN EARLY CHILDHOOD
EDUCATION AND IN ELEMENTARY EDUCATION

SUBPART A: STANDARDS FOR ENDORSEMENTS
IN EARLY CHILDHOOD EDUCATION

Section

- 26.100 Purpose and Effective Dates of Standards in Subpart A
- 26.110 Curriculum: General
- 26.120 Curriculum: English Language Arts Standards Through August 31, 2019
- 26.125 Curriculum: English Language Arts Standards Beginning September 1, 2019
- 26.130 Curriculum: Mathematics Standards Through August 31, 2019
- 26.135 Curriculum: Mathematics Standards Beginning September 1, 2019
- 26.140 Curriculum: Science
- 26.150 Curriculum: Social Science
- 26.160 Curriculum: Physical Development and Health
- 26.170 Curriculum: Fine Arts
- 26.180 Human Development and Learning
- 26.190 Diversity
- 26.200 Planning for Instruction
- 26.210 Learning Environment
- 26.220 Instructional Delivery
- 26.230 Communication
- 26.240 Assessment Standards Through August 31, 2019
- 26.245 Assessment Standards Beginning September 1, 2019
- 26.250 Collaborative Relationships
- 26.260 Reflection and Professional Growth
- 26.270 Professional Conduct and Leadership

SUBPART B: STANDARDS FOR ENDORSEMENTS
IN ELEMENTARY EDUCATION

Section

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26.300	Purpose and Effective Dates of Standards in Subpart B
26.310	Curriculum
26.320	Curriculum: English Language Arts
26.330	Curriculum: Mathematics
26.340	Curriculum: Science
26.350	Curriculum: Social Science
26.360	Curriculum: Physical Development and Health
26.370	Curriculum: Fine Arts
26.380	Human Development and Learning
26.390	Diversity
26.400	Planning for Instruction
26.410	Learning Environment
26.420	Instructional Delivery
26.430	Communication
26.440	Assessment
26.450	Collaborative Relationships
26.460	Reflection and Professional Growth
26.470	Professional Conduct and Leadership

AUTHORITY: Implementing Article 21B and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21B and 2-3.6].

SOURCE: Adopted at 26 Ill. Reg. 6263, effective April 22, 2002; amended at 37 Ill. Reg. 16759, effective October 2, 2013; amended at 39 Ill. Reg. 2413, effective February 2, 2015; amended at 39 Ill. Reg. 13472, effective September 24, 2015; amended at 40 Ill. Reg. 12433, effective August 9, 2016; amended at 41 Ill. Reg. 6962, effective June 2, 2017.

**SUBPART A: STANDARDS FOR ENDORSEMENTS
IN EARLY CHILDHOOD EDUCATION**

Section 26.100 Purpose and Effective Dates of Standards in Subpart A

Beginning September 1, 2019, the provisions of Sections 26.120, 26.130 and 26.240 are replaced by Sections 26.125, 26.135 and 26.245 as the standards that, together with the standards set forth in Standards for All Illinois Teachers (23 Ill. Adm. Code 24) and the standards in this Subpart A, shall apply to the issuance of endorsements in early childhood education on professional educator licenses pursuant to Article 21B of the School Code [105 ILCS 5/[Art. 21B](#)]. The standards set forth in this Subpart A shall apply both to candidates for an endorsement in early childhood education and to the programs that prepare them.

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- a) Approval of any teacher preparation program or course of study in early childhood education pursuant to the State Board's rules for Educator Licensure (23 Ill. Adm. Code 25, Subpart C) shall be based on the congruence of that program's or course's content with the standards identified in this Subpart A.
- b) The examinations required for issuance of an endorsement in early childhood education shall be based on the standards identified in this Subpart A.
- c) Beginning September 1, 2017, no candidate shall be admitted to a program that has not shown alignment to the standards set forth in Sections 26.125, 26.135 and 26.245. Any candidate who is enrolled in an early childhood education program aligned to the standards set forth in Sections 26.120, 26.130 and 26.240 shall complete the program on or before September 1, 2019 and be entitled (i.e., receive verification by the candidate's institution of higher education that the candidate has completed an approved early childhood education program and has met the testing and experience requirements for licensure) for that endorsement ~~for have~~ the early childhood education endorsement ~~issued~~ by September 1, 2020. Applicants undergoing the State Board's transcript evaluation process must submit their application for the endorsement by September 1, 2020.

(Source: Amended at 41 Ill. Reg. 6962, effective June 2, 2017)

SUBPART B: STANDARDS FOR ENDORSEMENTS
IN ELEMENTARY EDUCATION

Section 26.300 Purpose and Effective Dates of Standards in Subpart B

Beginning February 1, 2018, the provisions of Sections 26.320 and 26.330 are replaced by 23 Ill. Adm. Code 20 (Standards for Endorsements in Elementary Education) as the standards that, together with the standards set forth in Standards for All Illinois Teachers (see 23 Ill. Adm. Code 24), and the standards in this Subpart B other than those in Sections 26.320 and 26.330 shall apply to the issuance of an endorsement in elementary education on a professional educator license pursuant to Article 21B of the School Code [105 ILCS 5/~~Art. 21B~~]. The standards set forth in this Subpart B shall apply both to candidates for an endorsement in elementary education and to the programs that prepare them.

- a) Approval of any teacher preparation program or course of study in elementary education pursuant to the State Board's rules for Educator Licensure (23 Ill. Adm.

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Code 25, Subpart C) shall be based on the congruence of that program's or course's content with the standards identified in this Subpart B.

- b) The examinations required for issuance of an elementary endorsement shall be based on the standards identified in this Subpart B.
- c) No candidate shall be admitted to a program approved under the provisions of this Subpart B after October 1, 2015. Any candidate who is enrolled in an elementary program approved under this Part shall complete the program on or before September 1, 2018 and be entitled (see Section 26.100(c)) for~~have~~ the elementary education endorsement ~~issued~~ by September 1, 2019. Applicants undergoing the State Board's transcript evaluation process must submit their application for the endorsement by September 1, 2019.

(Source: Amended at 41 Ill. Reg. 6962, effective June 2, 2017)

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- 1) Heading of the Part: Renewable Portfolio Standard and Clean Coal Standard for Alternative Retail Electric Suppliers and Utilities Operating Outside Their Service Areas
- 2) Code Citation: 83 Ill. Adm. Code 455
- 3)

<u>Section Numbers</u> :	<u>Emergency Actions</u> :
455.10	Amendment
455.100	Amendment
455.110	Amendment
455.120	Amendment
455.125	New Section
455.130	Amendment
455.150	Amendment
455.160	New Section
- 4) Statutory Authority: Implementing and authorized by Section 16-115D of the Public Utilities Act [220 ILCS 5/16-115D].
- 5) Effective Date of Rules: June 1, 2017
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Upon adoption of the proposed general rulemaking
- 7) Date Filed with the Index Department: June 1, 2017
- 8) A copy of the emergency rules, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: PA 99-906 authorizes the Agency to implement emergency rules to carry out certain provisions added by the legislation to Section 16-115D of the Public Utilities Act [220 ILCS 5/16-115D]; the emergency rules address requirements contained in those provisions that take effect on June 1, 2017.
- 10) A Complete Description of the Subjects and Issues Involved: PA 99-906 takes effect on June 1, 2017, amending a number of statutes related to energy and renewable resources. One set of changes made by the legislation affects Section 16-115D of the Public Utilities Act, concerning renewable portfolio standards for retail electric suppliers and electric utilities operating outside their service areas. Section 16-115D(i) of the Public Utilities

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Act and Section 5-45(x) of the Illinois Administrative Procedure Act [5 ILCS 100/5-45(x)] authorize the Commission to adopt emergency rules that are necessary for carrying out the new provisions of Section 16-115D. These revisions to Part 455 are intended to address the changes made by the new legislation.

- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: The emergency rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 13) Information and questions regarding these emergency rules shall be directed to:

Brian W. Allen
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/558-2387
fax: 217/524-8928

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

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TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 455

RENEWABLE PORTFOLIO STANDARD AND CLEAN COAL
STANDARD FOR ALTERNATIVE RETAIL ELECTRIC SUPPLIERS
AND UTILITIES OPERATING OUTSIDE THEIR SERVICE AREAS

SUBPART A: GENERAL PROVISIONS

Section

455.10 Definitions and Incorporations

[EMERGENCY](#)

455.20 Record Retention, Additional Documentation, and Confidential Information

455.30 Waivers

SUBPART B: RENEWABLE PORTFOLIO STANDARD REQUIREMENTS

Section

455.100 Applicability of Subpart B

[EMERGENCY](#)

455.110 Obligation to Procure Renewable Energy Resources

[EMERGENCY](#)

455.120 Annual Report of Compliance with Renewable Energy Portfolio Standard

[EMERGENCY](#)455.125 [Annual Report of Compliance with the Retail Charge Provisions of the
Renewable Energy Portfolio Standard](#)[EMERGENCY](#)

455.130 Alternative Compliance Payment Requirements

[EMERGENCY](#)455.140 Procedures for Section 16-115D(h) Determination Based on the Operation of
Combined Heat and Power Systems

455.150 Other Commission Proceedings

[EMERGENCY](#)455.160 [ARES Self-Generation Compliance Option](#)[EMERGENCY](#)

SUBPART C: COMPLIANCE WITH CLEAN COAL STANDARD REQUIREMENTS

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Section

455.200 Applicability of Subpart C

455.210 Reporting of Compliance with Clean Coal Standard

AUTHORITY: Implementing and authorized by Sections 16-115 and 16-115D of the Public Utilities Act [220 ILCS 5/16-115 and 16-115D].

SOURCE: Emergency rules adopted at 34 Ill. Reg. 3115, effective February 19, 2010, for a maximum of 150 days; emergency expired July 18, 2010; adopted at 34 Ill. Reg. 10721, effective July 19, 2010; emergency amendment at 41 Ill. Reg. 6968, effective June 1, 2017, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 455.10 Definitions and Incorporations**EMERGENCY**

The following terms as used in this Part shall have the following meanings:

"Act" means the Public Utilities Act [220 ILCS 5].

"Agency" means the Illinois Power Agency [20 ILCS 3855].

"Alternative retail electric supplier" or "ARES" has the same meaning as in Section 16-102 of the Act.

"Clean coal facility" has the same meaning as in Section 1-10 of the IPA Act.

"Clean coal standard" means the various requirements imposed by Sections 16-115(d)(5) and 16-116(c) of the Act on ARES and electric utilities serving retail customers outside their service areas to source electricity from clean coal facilities.

"Commission" means the Illinois Commerce Commission.

"Compliance period" or "compliance year" means each 12-month period beginning June 1 and ending May 31, commencing June 1, 2009, and the comparable 12-month period in each succeeding year.

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"Covered amount of energy supplied" or "covered amount" refers to the amount of energy supplied (megawatt-hours) by a RES that is covered by the electric utility's renewable energy resources procurement obligations pursuant to Section 1-75(c)(1)(B) of the IPA Act. For the compliance year ending May 31, 2018, such covered amount equals 50% of the energy supplied by the RES to Illinois retail customers during the compliance year. For the compliance year ending May 31, 2019, such covered amount equals 75% of the energy supplied by the RES to Illinois retail customers during the compliance year. For the compliance year ending May 31, 2020 and thereafter, such covered amount equals 100% of the energy supplied by the RES to Illinois retail customers during the compliance year.

"Delivery services" has the same meaning as in Section 16-102 of the Act.

"Electric cooperative" has the same meaning as in Section 3.4 of the Electric Supplier Act [220 ILCS 30/3.4].

"Electric utility" has the same meaning as in Section 16-102 of the Act.

"IPA Act" means the Illinois Power Agency Act [20 ILCS 3855].

"M-RETS" means the Midwest Renewable Energy Tracking System or its successor.

"Municipal system" means any public utility owned and operated by any political subdivision or municipal corporation of the State of Illinois, or owned by such an entity and operated by its lessee or agent.

"PJM-GATS" means the PJM Environmental Information System Generation Attribute Tracking System or its successor.

"Renewable energy credit" or "REC" has the same meaning as in Section 1-10 of the IPA Act.

"Renewable energy resources" has the same meaning as in Section 1-10 of the IPA Act. For compliance years ending on or before May 31, 2017, renewable energy resources also includes energy and its associated renewable energy credit

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or renewable energy credits from other alternative sources of environmentally preferable energy.

"Renewable portfolio standard" or "RPS" means the various requirements imposed by Section 16-115D of the Act on ARES and electric utilities serving retail customers outside their service area.

"Retail customer" has the same meaning as in Section 16-102 of the Act.

"Retail electric supplier" or "RES" includes both ARES and electric utilities serving or seeking to serve retail customers outside their service area.

"Service Area" has the same meaning as in Section 16-102 of the Act.

"Supplied", in relation to a quantity of energy, means energy obtained by an RES and delivered to a retail customer by an electric utility providing delivery services to the retail customer, with the quantity of energy measured at the customer meter; provided, however, that only with respect to determining whether a combined heat and power system in Illinois supplies electricity primarily to or for the benefit of facilities identified in Section 16-115 D(h) of the Act. "Supplied" also includes energy generated by a combined heat power system used at those facilities, regardless of whether it passes through the customer meter and provided that only with respect to determining the requirements of Section 16-115D of the Act for electric utilities serving retail customers outside their service area. "Supplied" includes energy obtained by the utility and delivered to retail customers outside of the utility's service area.

"Uncovered amount of energy supplied" or "uncovered amount" refers to the amount of energy supplied (megawatt-hours) by a RES that is not covered by the electric utility's renewable energy resources procurement obligations pursuant to Section 1-75(c)(1)(B) of the IPA Act. For the compliance year ending May 31, 2018, such uncovered amount equals 50% of the energy supplied by the RES to Illinois retail customers during the compliance year. For the compliance year ending May 31, 2019, such uncovered amount equals 25% of the energy supplied by the RES to Illinois retail customers during the compliance year. For compliance years ending May 31, 2020 and after, such uncovered amount equals 0% of the energy supplied by the RES to Illinois retail customers during the compliance year.

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(Source: Amended by emergency rulemaking at 41 Ill. Reg. 6968, effective June 1, 2017, for a maximum of 150 days)

SUBPART B: RENEWABLE PORTFOLIO STANDARD REQUIREMENTS

Section 455.100 Applicability of Subpart B
EMERGENCY

This Subpart applies to RES and electric utilities, as applicable. This Subpart does not apply to electric cooperatives or municipal systems making an election under Section 17-300 of the Act to become an ARES or, except as provided in Section 455.140, to an ARES that is exempt from the requirements of Section 16-115D of the Act.

(Source: Amended by emergency rulemaking at 41 Ill. Reg. 6968, effective June 1, 2017, for a maximum of 150 days)

Section 455.110 Obligation to Procure Renewable Energy Resources
EMERGENCY

- a) Each RES shall procure cost-effective renewable energy resources in accordance with the requirements of Section 16-115D of the Act.
- b) For an RES/ARES, the obligation to procure renewable energy resources is expressed in units of electricity (megawatt-hours) and is measured as a percentage of the actual amount of metered electricity supplied to the RES/ARES Illinois retail customers during each compliance year, pursuant to contracts executed or extended after March 15, 2009 (see 220 ILCS 5/16-115D(a)(2), (a) and (6), and (g)).
- e) ~~For electric utilities serving retail customers outside their service area, the obligation to procure renewable energy resources is expressed in units of electricity (megawatt-hours) and is measured as a percentage of the actual amount of metered electricity supplied in the State by the utility outside of its service area during each compliance year, pursuant to contracts executed or extended after March 15, 2009 (see 220 ILCS 5/16-115D(a)(2), (a)(6) and (g)).~~
- c~~d~~) For compliance years ending on or before May 31, 2017, theThe minimum quantity of renewable energy resources to be procured for each compliance year shall be calculated based on the annual percentages set forth in Section 1-75(c)(1)

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of the IPA Act (see 220 ILCS 5/16-115D(a)(3)). For compliance years ending on or before May 31, 2017, renewable energy resources also includes energy and its associated renewable energy credit or renewable energy credits from other alternative sources of environmentally preferable energy. For the compliance year ending on May 31, 2018, the minimum quantity of renewable energy resources to be procured shall be equal to 13% of the uncovered amount of energy supplied during the compliance year (see 220 ILCS 5/16-115D(a)(3.5)). For the compliance year ending on May 31, 2019, the minimum quantity of renewable energy resources to be procured shall be equal to 14.5% of the uncovered amount of energy supplied during the compliance year (see 220 ILCS 5/16-115D(a)(3.5)). For compliance years ending on or after May 31, 2020 RES do not have an obligation pursuant to Section 16-115D of the Act to procure renewable energy resources. For an ARES that meets the requirements of Section 1-75(c)(1)(H) of the IPA Act, the ARES obligation to purchase renewable energy resources shall be reduced in accordance with Section 455.160.

- d) For compliance years ending on or before May 31, 2017, at least 60% and at least 6% of the RES obligation to procure renewable energy resources shall come from wind and solar photovoltaic generation, respectively. For compliance years ending on or before May 31, 2017, renewable energy resources also includes energy and its associated renewable energy credit or renewable energy credits from other alternative sources of environmentally preferable energy. For compliance years ending on May 31, 2018 and May 31, 2019, at least 32% of the RES obligation to procure renewable energy resources shall come from wind or photovoltaic generation.
- e) For compliance years ending on or before May 31, 2017, at least 50% of the obligation to procure renewable energy resources must be satisfied by making alternative compliance payments, and the balance of the obligation to procure renewable energy resources may be satisfied by generating electricity using renewable energy resources, purchasing electricity generated using renewable energy resources, purchasing renewable energy credits from renewable energy resources, or making alternative compliance payments (see 220 ILCS 5/16-115D(b)(1) and (3)). For compliance years ending on or before May 31, 2017, renewable energy resources also includes energy and its associated renewable energy credit or renewable energy credits from other alternative sources of environmentally preferable energy. For compliance years ending on May 31, 2018, and May 31, 2019, the obligation to procure renewable energy resources may be satisfied by generating electricity using renewable energy resources,

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purchasing electricity generated using renewable energy resources, purchasing renewable energy credits from renewable energy resources, making alternative compliance payments, or a combination thereof (see 220 ILCS 5/16-115D(b)(2) and (3))(see 220 ILCS 5/16-115D(b)(2)).

- f) Alternative compliance payment rate. The "maximum alternative compliance payment rate" for each compliance year shall be equal to the maximum allowable annual estimated average net increase due to the costs of the utility's purchase of renewable energy resources included in the amounts paid by eligible retail customers in connection with electric service, as described in Section 1-75(c)(2) of the IPA Act for the compliance period, as established in the approved procurement plan. The "actual alternative compliance payment rate" will be equal to the lower of the maximum alternative compliance payment rate or the total amount of dollars the utility actually spent on renewable energy resources for the compliance period divided by the forecasted load of eligible-retail customers for which the utility is procuring renewable energy resources in a given compliance year, at the customers' meters, as previously established in the Commission-approved procurement plan for that compliance year. (See Section 16-115D(d)(1) of the Act.)
- g) To the extent to which a RES seeks to meet its obligation to procure renewable energy resources by generating electricity using renewable energy resources, purchasing electricity generated using renewable energy resources, or purchasing renewable energy credits, such the Act establishes minimum percentages that must be procured from specific renewable resource types (wind and solar photovoltaic) and specifies the locations where the resources or the resources generating the renewable energy credits must be located (within Illinois, Wisconsin, Indiana, Iowa, Kentucky, Michigan, or Missouri, within states that adjoin Illinois or within portions of the PJM and MISO footprint in the United States) (see 220 ILCS 5/16-115D(a)(43)). Renewable energy credits used toward compliance for a compliance year must be generated during that compliance year or during the two previous compliance years. (See 220 ILCS 5/16-115D(c)(1).) Renewable energy credits from other alternative sources of environmentally preferable energy may not be used toward compliance beyond compliance years ending on May 31, 2017. For purposes of this Subpart, the states that adjoin Illinois are Wisconsin, Indiana, Iowa, Kentucky, Michigan and Missouri.
- h) For a compliance year, a RES' obligation to procure renewable energy resources by generating electricity using renewable energy resources, purchasing electricity

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generated using renewable energy resources, or purchasing renewable energy credits from renewable energy resources is determined according to the following formula:

$$RR_u = [\text{Applicable Supply}_u - (\text{Payment}_u / \text{ACPRate}_u)] \times \text{Requirement}$$

where:

RR_u is the RES' obligation to procure renewable energy resources by generating electricity using renewable energy resources, purchasing electricity generated using renewable energy resources, or purchasing renewable energy credits from renewable energy resources (in megawatt-hours) in utility service area u;

Applicable Supply_u is, for compliance years ending on or before May 31, 2017, the amount of metered electricity supplied to the RES' Illinois retail customers in utility service area u during the compliance year (in megawatt-hours) and is, for compliance years ending on May 31, 2018 and May 31, 2019, the uncovered amount of energy supplied to the RES' Illinois retail customers in utility service area u during the compliance year (in megawatt-hours).

Payment_u is the amount of the alternative compliance payment (in \$) made by the RES in utility service area u including, for compliance years ending on or before May 31, 2017, mandatory ACP payments made in compliance with subsection (e) of this Section;

ACPRate_u is the actual alternative compliance payment rate (in dollar per megawatt-hour) in utility service area u;

Requirement is the annual renewable requirement percentages specified or referenced in subsection (c) of this Section (expressed in decimal form).

- i) Alternative compliance payments may be used to reduce the wind and/or photovoltaic requirements identified in subsection (d) of this Section.

(Source: Amended by emergency rulemaking at 41 Ill. Reg. 6968, effective June 1, 2017, for a maximum of 150 days)

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**Section 455.120 Annual Report of Compliance with Renewable Energy Portfolio Standard
EMERGENCY**

By September 1, 2010, and by September 1 of each succeeding year through September 1, 2019, each RES shall file with the Chief Clerk of the Commission ~~and provide to the Directors of the Energy Division and the Financial Analysis Division of the Commission, or to their successors,~~ a compliance report for the compliance year ending May 31 of that year, showing compliance with the renewable portfolio standard of Section 16-115D of the Act for the applicable compliance period. The report shall be titled "Annual Report of Compliance with Renewable Portfolio Standard".

- a) At a minimum, the compliance report shall provide, contain or show, for the applicable compliance year, and for each utility service area within which the RESARES serves Illinois retail customers ~~or the electric utility serves retail customers outside its service area~~ the following:
 - 1) The total quantity of metered electricity supplied to Illinois retail customers by the RESARES ~~or the quantity of metered electricity supplied by an electric utility in Illinois outside the utility's service area~~. The report shall show this information, in megawatt-hours, by service area for each electric utility that is subject to Section 1-75(c) of the IPA Act;
 - 2) The quantity of metered electricity supplied to Illinois retail customers by the RESARES, ~~or the quantity of metered electricity supplied by an electric utility in Illinois outside the utility's service area~~, pursuant to contracts executed or extended after March 15, 2009. The report shall show this information, by utility service territory, in megawatt-hours;
 - 3) The quantity of RECs (in megawatt-hours), whether directly purchased or arising from generating electricity or purchasing electricity generated from renewable energy resources, that were retired for purposes of meeting the requirements of the renewable portfolio standard for the compliance period in each utility service area. The report shall also show the quantity and percentage of these RECs that were derived from each renewable energy source typewind-powered generation resources. ~~For compliance periods starting on and after June 1, 2015, the report shall also show the quantity and percentage of these RECs that were derived from solar photovoltaic resources~~. All REC quantities reported shall be categorized by regional REC tracking system: PJM-GATS and M-RETS; and

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- 4) The alternative compliance payments that were made for purposes of meeting the requirements of the renewable portfolio standard for the compliance period by utility service area.
- b) Documentation requirements for compliance~~Compliance~~ methods other than alternative compliance payments
- 1) If a RES seeks to comply with the RPS by generating electricity using renewable energy resources, purchasing electricity generated using renewable energy resources, or purchasing renewable energy credits, the only acceptable proof of compliance shall be in the form of verifiable documentation from PJM-GATS or M-RETS of the retirement of renewable energy credits associated with the production of electricity using renewable energy resources in accordance with Section 16-115D(a)(4) of the Act. The RES shall clearly indicate the PJM-GATS and M-RETS account names and sub-account names that are included in the documentation~~Prior to identification of renewable energy resources as required under Section 16-115D(a)(4) of the Act, RECs meeting the definition of renewable energy resources as used in the Act and the type and locational requirements of Section 455.110(g) shall qualify for purposes of compliance.~~
 - 2) Documentation~~If any of these means of compliance are used by the RES during a compliance period, the annual report shall be accompanied by documentation from PJM-GATS and M-RETS of the RECs that were retired for purposes of meeting the requirements of the renewable portfolio standard for the compliance period. At a minimum, the documentation provided shall show, at a minimum:~~
 - A) the generating facility associated with the RECs;
 - B) the location of each of the generating facilities associated with the RECs;
 - CA) the quantity of RECs associated with each of those generating facilities and the month and year that the electricity associated with the RECs was generated;

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- ~~DB)~~ the retirement status of the RECs; and
- ~~EC)~~ the State RPS and compliance period for which the RECs were retired; ~~and~~
- ~~D)~~ ~~whether the renewable resource associated with the RECs was located in Illinois, within states that adjoin Illinois or within portions of the PJM and MISO footprint in the United States.~~
- 3) If PJM-GATS and M-RETS only allow account holders to designate calendar year compliance periods, the RES shall designate the year at the end point of the Illinois compliance period. For example, for Illinois' June 2016-May 2017 compliance period, the RES shall designate 2017 if the option to designate 2016-2017 is not available.
- 4) For compliance periods ending on or after May 31, 2018, a certification that RECs used for compliance for the compliance period were not produced by facilities whose costs were being recovered through rates regulated by any state or states on or after January 1, 2017.
- c) If metered electricity supplied to Illinois retail customers by an RES is supplied during the compliance period pursuant to contracts that were not executed or extended after March 15, 2009, the ~~RES~~~~RES or utility~~ shall provide a list, by utility service area, of those Illinois retail customers who received electricity that was not supplied pursuant to contracts executed or extended after March 15, 2009. The list shall include the following information: account numbers and the quantity of electricity (in megawatt-hours) supplied to the account numbers during the compliance period that was not supplied pursuant to contracts executed or extended after March 15, 2009.
- d) If the Commission has entered an order pursuant to Section 16-115D(h) of the Act determining that the provisions of Section 16-115D and Section 16-115(d) of the Act relating to procurement of renewable energy resources do not apply to a RES, the RES shall include in its annual compliance report:
- 1) The docket number of the Commission proceeding in which a Commission order determined that the provisions of Section 16-115D and Section 16-115(d) of the Act relating to procurement of renewable energy resources do not apply to the RES;

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- 2) a statement indicating whether the conditions or circumstances giving rise to the Commission's determination continued to apply to the RES during the compliance year; and
 - 3) the further demonstrations identified in the Commission's order of compliance with the criteria identified in Section 16-115D(h) of the Act.
- e) All reports filed or provided under this Section shall be verified by an executive officer of the RES filing party having knowledge of the facts before either a notary public or other officer authorized to administer oaths.

(Source: Amended by emergency rulemaking at 41 Ill. Reg. 6968, effective June 1, 2017, for a maximum of 150 days)

Section 455.125 Annual Report of Compliance with the Retail Charge Provisions of the Renewable Energy Portfolio Standard
EMERGENCY

By September 1, 2020, and by September 1 of each succeeding year, each RES shall file with the Chief Clerk of the Commission a compliance report for the compliance year ending May 31 of that year, certifying that the RES did not recover from its retail customers through its rates or charges the costs for any renewable energy resources procured or otherwise acquired by any entity in compliance with the requirements of the Act or the IPA Act, with the exception, if applicable, of renewable energy resources that meet the requirements of Section 1-75(c)(3)(H) of the IPA Act. The report shall be titled "Annual Section 16-115D(i) Compliance Report." All reports filed or provided under this Section shall be verified by an executive officer of the RES having knowledge of the facts before either a notary public or other officer authorized to administer oaths.

(Source: Added by emergency rulemaking at 41 Ill. Reg. 6968, effective June 1, 2017, for a maximum of 150 days)

Section 455.130 Alternative Compliance Payment Requirements
EMERGENCY

- a) Alternative compliance payments may, subject to the requirements and limitations in Section 455.110, be used to meet RES Renewable portfolio standard requirements~~for each service area within which a RES supplied electricity shall be~~

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~~equal to the actual alternative compliance payment rate for the compliance period for the service area multiplied by the actual amount of metered electricity supplied pursuant to contracts executed or extended after March 15, 2009 to retail customers within the service area during the compliance period, multiplied by the result of one minus the ratio (which cannot exceed 1/2) of the quantity of renewable energy resources used to comply with the requirements of Section 16-115D within the service area to the product of the percentage of renewable energy resources required for the compliance period under Section 16-115D(a)(3) of the Act and the actual amount of metered electricity supplied pursuant to contracts executed or extended after March 15, 2009 to retail customers within the service area during the compliance period. (See 220 ILCS 5/16-115D(b) and (d)(3).) For determining the number of megawatt-hours of renewable energy credits that must be purchased for compliance, a RES may convert alternative compliance payment dollar amounts into megawatt-hour equivalents, by multiplying the payment by the total RPS percentage requirement and then dividing by the applicable alternative compliance payment rate (the latter expressed in dollars per megawatt-hour), at which point a RES may allocate in any manner desired the megawatt-hour equivalents of its alternative compliance payments toward satisfying the wind, solar photo-voltaic, and non-specific renewable energy requirements for the compliance period.~~

- b) The dollar amount of alternative compliance payments shall be calculated using the applicable alternative compliance payment rates approved by the Commission.
- c) Alternative compliance payments shall be made by September 1, 2010 for the compliance period of June 1, 2009 to May 31, 2010, and by September 1 of each succeeding year for each subsequent compliance period.
- d) Alternative compliance payments for the compliance periods ending on or before May 31, 2016~~Alternative compliance payments~~ shall be made by check, payable to "Illinois Commerce Commission", and shall be delivered to the following address:

Illinois Commerce Commission
Administrative Services Division
Attn: Manager of the Revenues Section
Re: Illinois Power Agency Renewable Energy Resources Fund
527 East Capitol Avenue
Springfield IL 62701

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Alternative compliance payments shall be deemed made only when actually received at the office of the Commission at the specified address. Payment by a check that does not clear after being deposited by the Commission shall be deemed to not have been made.

Alternative compliance payments for the compliance periods ending on or after May 31, 2017, shall be submitted to each electric utility within whose service area the RES has provided energy to retail customers in a manner specified in electric utility tariffs in effect when the payment is made. If an electric utility does not have a tariff governing the alternative compliance payments in effect at the time alternative compliance payments for the compliance period are due, the RES is still obligated to make payment for the compliance period but the RES shall hold the payment until such time as the electric utility's tariff goes into effect. Alternative compliance payments shall be deemed made only when actually received by the electric utility. Payment by a check that does not clear after being deposited by the electric utility shall be deemed to not have been made.

- e) Within one business day of the submission of any alternative~~Alternative~~ compliance payments, whether submitted to the Commission or an electric utility, the RES shall ~~send~~be accompanied by a letter to the Chief Clerk of the Commission ~~and the Director of the Energy Division or their successors~~ containing the following information:
- 1) "Re: 83 Ill. Adm. Code 455.130~~Illinois Power Agency Renewable Energy Resources Fund~~";
 - 2) Name and address of RES;
 - 3) The RES' FEIN;
 - 4) Name and telephone number of person writing the letter;
 - 5) Dollar ~~amounts~~amount of the ~~check~~ (alternative compliance ~~payments~~payment);
 - 6) The payee for each payment~~Check number~~;

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- 7) Compliance period for which the payment is being made (e.g., June 1, 2009 through May 31, 2010); and
 - 8) An indication whether the payment is intended to satisfy the balance of alternative compliance payment requirements for the compliance period or whether more payments may be forthcoming.
- f) The Commission shall deposit all amounts received for compliance periods ending on or before May 31, 2016, into the Illinois Power Agency Renewable Energy Resources Fund, a special fund in the State treasury administered by the Illinois Power Agency.
- g) The Commission shall carry forward to subsequent compliance periods the dollar amount of any compliance payments recognized by the Commission to be in excess of requirements, unless and to the extent to which the RES petitions for and is granted permission to apply ~~to the Illinois Power Agency~~ for a refund.
- h) For purposes of ensuring RES compliance with this Part, electric utilities shall submit reports to the Commission and the Illinois Power Agency in years 2017, 2018, and 2019. Such reports shall contain the following information:
- 1) On or before September 1: Metered usage data by RES; and
 - 2) On or before September 30: The amount and date of alternative compliance payments made by each RES to the utility and any refunds made by the utility to a RES pursuant to Section 455.150(c).

(Source: Amended by emergency rulemaking at 41 Ill. Reg. 6968, effective June 1, 2017, for a maximum of 150 days)

Section 455.150 Other Commission Proceedings
EMERGENCY

- a) After receipt of an annual report required by Section 455.120 or the due date for these reports, whichever occurs first, the Commission may initiate, on its own motion or, in its discretion, upon the petition of an interested party, and for each RES, a docketed proceeding to investigate whether the RES or utility has complied with the requirements of Section 16-115D of the Act and this Subpart, to determine the amount by which alternative compliance payments have been

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insufficient or in excess of requirements, and, if applicable, to determine if the demonstrations described in Section 455.140(d)(3) have been made. Pursuant to Section 16-115D(f) of the Act, the RES shall have the burden of proof in this proceeding.

- b) A RES may petition the Commission for permission to apply to the Illinois Power Agency for a refund of compliance payments for a compliance period ending on or before May 31, 2016, recognized by the Commission to be in excess of requirements. The Commission will coordinate with the Illinois Power Agency in developing a process and procedure to implement this subsection (b).
- c) A RES may petition the Commission for permission to apply to an electric utility for a refund of compliance payments for a compliance period ending on May 31, 2017, May 31, 2018, or May 31, 2019 recognized by the Commission to be in excess of requirements. The RES shall serve notice of such petition upon the electric utility. After notice and hearing, the Commission shall issue an order granting or denying the petition, and such order shall be served on the RES and electric utility. No later than 60 days after the date on which the Commission issues an order granting the RES' petition for a refund, the electric utility shall issue a refund or provide a credit to the RES. The electric utility shall deduct the amount of the refund or credit from the compliance payments remitted to the electric utility pursuant to Section 455.130. Electric utilities may file tariff sheets to further define the process of RES applying for and receiving such refunds.

(Source: Amended by emergency rulemaking at 41 Ill. Reg. 6968, effective June 1, 2017, for a maximum of 150 days)

Section 455.160 ARES Self-Generation Compliance Option
EMERGENCY

- a) If an ARES meets the requirements of Section 1-75(c)(1)(H) of the IPA Act and intends to supply its retail customers with renewable energy credits from a facility or facilities meeting the requirements of Section 1-75(c)(1)(H) of the IPA Act, the ARES must submit an information filing with the Chief Clerk of the Commission titled "Code Part 455.160 Renewable Energy Facility Self-Generation Certification" by July 17, 2017 that shall, at a minimum, for each such facility:
- 1) identify the electric generating facility generating renewable energy resources;

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- 2) include a certification that, as of December 31, 2015, the ARES or its predecessor, owned the generating facility;
 - 3) include a certification that the facility generates renewable energy resources; and
 - 4) include a certification that the generating facility is not powered by wind or photovoltaics.
- b) If an ARES has submitted an information filing under subsection (a) of this Section and elects to supply its retail customers with renewable energy credits from facilities identified in the information filing under subsection (a) of this Section, the ARES must submit by February 28 of the year preceding the applicable compliance year or by June 16, 2017, whichever is later, a notification to the Chief Clerk of the Commission of its election titled "Code Part 455.160 Renewable Energy Facility Self-Generation Annual Election" that shall, at a minimum:
- 1) identify the amount of renewable energy credits to be supplied to each utility's retail customers by the ARES from each facility identified in the ARES Code Part 455.160 Renewable Energy Facility Self-Generation Certification; and
 - 2) include a calculation demonstrating that the annual election to supply its retail customers with renewable energy credits from facilities identified in the ARES Code Part 455.160 Renewable Energy Facility Self-Generation Certification adheres to the following limitations:
 - A) For the compliance year ending May 31, 2019, the maximum amount of renewable energy credits to be supplied by an ARES from facilities identified in the ARES Code Part 455.160 Renewable Energy Facility Self-Generation Certification shall be 68% multiplied by 25% multiplied by 14.5% multiplied by the amount of metered electricity (megawatt-hours) delivered by the ARES to Illinois retail customers during the compliance year ending May 31, 2016.
 - B) For the compliance year ending May 31, 2020 and each year thereafter, the maximum amount of renewable energy credits to be

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supplied by an ARES from facilities identified in the ARES Code Part 455.160 Renewable Energy Facility Self-Generation Certification shall be 68% multiplied by 50% multiplied by 16% multiplied by the amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to Illinois retail customers during the compliance year ending May 31, 2016, provided that the 16% value shall increase by 1.5% each compliance year after the compliance year ending May 31, 2020 to 25% by the compliance year beginning June 1, 2025, and thereafter the 25% value shall apply to each compliance year.

- c) The following subsections of Section 455.160 apply to compliance years when one or more ARES meets the requirements of Section 1-75(c)(1)(H) of the IPA Act and at least one ARES elects to supply its retail customers with renewable energy credits from a facility or facilities meeting the requirements of Section 1-75(c)(1)(H) of the IPA Act. Renewable energy credits meeting these requirements are, for purposes of this subsection, referred to as eligible renewable energy credits. On or before April 1 of each year, the IPA will annually publish a report on its website that identifies the aggregate amount of eligible renewable energy credits supplied by ARES under this Section.
- 1) The ARES target renewable energy credit quantity for a compliance year shall be equal to the sum of the covered and uncovered amount of energy supplied by the ARES in a utility service area during the compliance year multiplied by a percentage. For the compliance year ending May 31, 2019, the percentage is 14.5%. For the compliance years after May 31, 2019 the 14.5% percentage shall increase by 1.5% each compliance year thereafter to 25% by the compliance year ending on May 31, 2026, and thereafter the 25% percentage shall apply to each compliance year. The target renewable energy credit quantity is expressed in units of electricity (megawatt-hours) and is measured as a percentage of the actual amount of metered electricity supplied to the ARES' Illinois retail customers in the utility service area pursuant to contracts executed or extended after March 15, 2009.
- 2) The Illinois target renewable energy credit quantity for a compliance year shall be equal to the sum of the covered and uncovered amount of energy supplied by RESs and utilities in a utility service area during the immediately preceding compliance year multiplied by a percentage. For

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the compliance year ending May 31, 2019, the percentage shall be 14.5%. For the compliance years after May 31, 2019, the 14.5% percentage shall increase by 1.5% each compliance year thereafter to 25% by the compliance year ending on May 31, 2026, and thereafter the 25% percentage shall apply to each compliance year. The Illinois target renewable credit quantity is expressed in units of electricity (megawatt-hours) and is measured as a percentage of the actual amount of metered electricity supplied to the Illinois retail customers in a utility service area pursuant to contracts executed or extended after March 15, 2009.

- 3) For the compliance year ending May 31, 2019, the maximum amount of eligible renewable energy credits to be provided by an ARES in a utility service area shall be 68% multiplied by 25% multiplied by 14.5% times the amount of the sum of the covered and uncovered amount of energy supplied by the ARES in a utility service area during the compliance year ending May 31, 2016. For the compliance year ending May 31, 2020, the maximum amount of eligible renewable energy credits to be provided by an ARES in a utility service area shall be 68% multiplied by 50% multiplied by 16% times the amount of the sum of the covered and uncovered amount of energy supplied by the ARES in a utility service area during the compliance year ending May 31, 2016. For compliance periods ending on or after May 31, 2021, the maximum amount of eligible renewable energy credits to be provided by an ARES in a utility service area shall be 68% multiplied by 50% multiplied by 17.5% times the amount of the sum of the covered and uncovered amount of energy supplied by the ARES in a utility service area during the compliance year ending May 31, 2016, provided that the 17.5% shall increase by 1.5% each compliance period thereafter to 25% by the compliance year ending on May 31, 2026, thereafter the 25% shall apply to each compliance year.
- 4) For a compliance year, the total amount of eligible renewable energy credits provided by all ARES shall not exceed 9% of the Illinois target renewable energy credit quantity in a utility service area. If the total amount of eligible renewable energy credits provided by ARES exceed 9% of the Illinois target renewable energy credit quantity in a utility service area for a compliance year, then each amount of eligible renewable energy credits provided by each ARES will be reduced on a pro rata basis so that the total amount of eligible renewable energy credits provided by

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all ARES equals 9% of the Illinois target renewable energy credit quantity in a utility service area.

- 5) For compliance years ending on or after May 31, 2019, the charges assessed by the electric utility to the ARES customers for the compliance year shall be reduced by the ratio of the quantity of eligible renewable energy credits provided by the ARES in a utility service area compared to the ARES target renewable energy credit quantity in a utility service area for the compliance period.
- 6) For compliance years ending on or after May 31, 2019, the minimum quantity of renewable energy resources to be procured by the ARES for the compliance year, as specified in Section 455.110(c) shall be reduced in a utility service area by the ratio of the quantity of eligible renewable energy credits provided by the ARES compared to the ARES target renewable energy credit quantity for the compliance year.

(Source: Added by emergency rulemaking at 41 Ill. Reg. 6968, effective June 1, 2017, for a maximum of 150 days)

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NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Certification for New Utility-Scale Wind and Solar Installers
- 2) Code Citation: 83 Ill. Adm. Code 461
- 3)

<u>Section Numbers</u> :	<u>Emergency Actions</u> :
461.10	New Section
461.20	New Section
461.30	New Section
461.40	New Section
461.50	New Section
461.60	New Section
461.70	New Section
461.80	New Section
461.90	New Section
461.100	New Section
461.110	New Section
461.120	New Section
- 4) Statutory Authority: Implementing and authorized by Section 16-128A of the Public Utilities Act [220 ILCS 5/16-128A].
- 5) Effective Date of Rules: June 1, 2017
- 6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: Upon adoption of the proposed general rulemaking
- 7) Date Filed with the Index Department: June 1, 2017
- 8) A copy of the emergency rules, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: PA 99-906 authorizes the Agency to implement emergency rules to carry out certain provisions added by the legislation to Section 16-128A of the Public Utilities Act [220 ILCS 5/16-128A]; the emergency rules address requirements contained in those provisions that take effect on June 1, 2017.
- 10) A Complete Description of the Subjects and Issues Involved: PA 99-906 takes effect on June 1, 2016, amending a number of statutes related to energy and renewable resources.

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One set of changes made by the legislation affects Section 16-128A of the Public Utilities Act, adding provisions on the certification of persons or entities that install utility-scale wind or solar projects. The legislation directs the Agency to promulgate rules to carry out the new provisions, and Section 16-128A(g) of the Public Utilities Act and Section 5-45(x) of the Illinois Administrative Procedure Act [5 ILCS 100/5-45(x)] authorize the Agency to do so on an emergency basis. New Part 461 is intended to address the requirements that have been added to Section 16-128A.

- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: The emergency rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 13) Information and questions regarding these emergency rules shall be directed to:

Brian W. Allen
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/558-2387
fax: 217/524-8928

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF EMERGENCY RULES

TITLE 83: PUBLIC UTILITIES

CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIESPART 461
CERTIFICATION FOR NEW UTILITY-SCALE
WIND AND SOLAR INSTALLERS

Section

461.10 Definitions

[EMERGENCY](#)

461.20 Applicability

[EMERGENCY](#)

461.30 Application Procedures

[EMERGENCY](#)

461.40 Required Application Information

[EMERGENCY](#)

461.50 Certification Requirements

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461.60 Certifications Conditioned Upon Compliance

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461.70 Annual Recertification and Reporting

[EMERGENCY](#)

461.80 Complaint Procedures

[EMERGENCY](#)

461.90 Commission Oversight

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461.100 Maintenance of Records

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461.110 Fees

[EMERGENCY](#)

461.120 Initial Compliance Date

[EMERGENCY](#)

AUTHORITY: Implementing Section 16-128A of the Public Utilities Act [220 ILCS 5/16-128A] and authorized by Sections 16-128A and 10-101 of the Public Utilities Act [220 ILCS 5/128A and 10-101].

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SOURCE: Adopted by emergency rulemaking at 41 Ill. Reg. 6990, effective June 1, 2017, for a maximum of 150 days.

Section 461.10 Definitions**EMERGENCY**

Terms defined in Section 16-128A of the Act shall have the same meaning for purposes of this Part as they have under Section 16-128A of the Act, unless further defined in this Part.

"Act" means the Public Utilities Act [220 ILCS 5].

"Applicant" means an entity that files an application with the Illinois Commerce Commission (Commission) requesting certification pursuant to Section 16-128A of the Act to be an installer of new solar or new wind projects.

"Certificate holder" means an entity that has received certification pursuant to this Part and that is in good standing with the Commission.

"Commission" means the Illinois Commerce Commission.

"Company" has the same definition as found in Section 3-112 of the Act [220 ILCS 5/3-112].

"Corporation" has the same definition as found in Section 3-113 of the Act [220 ILCS 5/3-113].

"Directly supervised" means that there is a person on-site at the new solar or new wind project who meets the qualifications to perform solar or wind installations who is available for consultation and review of work performed by apprentices or electrical contractors who may be performing installations.

"Entity" means a company, corporation, person or limited liability partnership that is involved in the business of installing utility-scale generation.

"Illinois Community College Board" is the State coordinating board for community colleges that administers the Public Community College Act [110 ILCS 805] in a manner that maximizes the ability of the community colleges to serve their communities.

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"Install" means to perform the electrical wiring and connections necessary to interconnect the new solar or new wind project with the electric utility's transmission or distribution system at the point of interconnection between the project and the utility. The meaning of "install" in this Part specifically does not include:

Electrical wiring and connections to interconnect the new solar or new wind project performed by utility workers;

Electrical wiring and connections internal to the new solar or new wind project performed by the manufacturer;

The on-site construction and installation of a wind turbine or a solar panel or a collector substation; or

Tasks relating to construction, planning and project management performed by individuals such as an inspector, management planner, consultant, project designer, or contractor for the project or their employees.

"NEC" means the National Electrical Code adopted by the National Fire Protection Association, Inc., 1 Batterymarch Park, Quincy MA 02169 (NFPA 70), effective August 24 2016.

"Person" has the same definition as found in Section 3-114 of the Act [220 ILCS 5/3-114].

"Qualified person" means a person who performs installations on behalf of the certificate holder and who has completed at least one of the following programs requiring lab or field work and received a certification of satisfactory completion: an apprenticeship as a journeyman electrician from a USDOL-registered electrical apprenticeship and training program; a North American Board of Certified Energy Practitioners (NABCEP) distributed generation technology certification program; an Associate in Applied Science degree from an Illinois Community College Board or approved community college program in the appropriate generation technology; or a mandated apprentice or training program for an electrician in another state.

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"New solar or new wind projects" means utility-scale solar projects or utility-scale wind projects where the installation begins on or after June 1, 2017.

"USDOL-registered electrician apprenticeship program" and "United States Department of Labor registered electrician apprenticeship program" means an electrician apprenticeship training program that is registered with the United States Department of Labor (USDOL).

"USDOL certification of satisfactory completion" means that person has received a nationally recognized and portable Certificate of Completion from an electrician apprenticeship program that is registered with the USDOL.

"Utility-scale solar project" means the same as that term is defined in Section 1-10 of the Illinois Power Agency Act [20 ILCS 3855/1-10].

"Utility-scale wind project" means the same as that term is defined in Section 1-10 of the Illinois Power Agency Act [20 ILCS 3855/1-10].

Section 461.20 Applicability**EMERGENCY**

After June 1, 2017, all entities that install new utility-scale solar or new utility-scale wind projects in the State of Illinois shall be certified by the Commission under this Part. A developer of new wind or solar projects need not be certified under this Part so long as the developer contractually ensures that any entity that the developer engages to install a new solar or new wind project is certified under this Part.

Section 461.30 Application Procedures**EMERGENCY**

- a) The applicant shall file its application for certification under this Part and provide all information required by this Part.
- b) Contents of documents filed by applicants shall be consistent with Subpart B of the Commission's Rules of Practice (83 Ill. Adm. Code 200).
- c) Applications for certification shall be submitted with the appropriate fee payment.

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- d) Applications for certification shall be filed with the Chief Clerk of the Commission and shall be verified pursuant to Section 200.130 of the Commission's Rules of Practice (83 Ill. Adm. Code 200.130). Applications by a corporation shall be verified by a corporate officer.
- e) An entity may complete the certification process after completing an installation of a new utility-scale solar or new utility-scale wind project.

Section 461.40 Required Application Information**EMERGENCY**

Applications for certification under this Part shall contain the following information:

- a) The applicant's name (including d/b/a, if any), street address, telephone number, facsimile number, website, and email address. The applicant shall provide the business name as that name appears on its Illinois Secretary of State's Office registration. The applicant shall provide the business name as it appears on its Illinois Secretary of State's Office registration, including any and all assumed business names. This information shall be kept current and any change shall be filed with the Chief Clerk of the Commission at the Commission's Springfield office within 15 days after the change occurs;
- b) Contact information, including names, addresses, telephone numbers, facsimile numbers and email addresses for persons or entities responsible for issues related to processing the application;
- c) The applicant's Federal Employer Identification Number (FEIN) or Taxpayer Identification Number (TIN), as applicable;
- d) A certification that the applicant will comply with informational and reporting requirements established under this Part;
- e) A statement that the applicant agrees to accept service by electronic means as provided for in 83 Ill. Adm. Code 200.1050 (the Commission's Rules of Practice);

Section 461.50 Certification Requirements**EMERGENCY**

An applicant shall be certified if its application satisfies the following requirements:

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- a) The applicant certifies that it will remain in compliance with all applicable laws and regulations and Commission rules and orders, including, but not limited to, the requirements of Sections 16-128(a) and 16-128A of the Act and this Part.
- b) The applicant certifies that it will ensure that its employees, agents or contractors, or the employees, agents or contractors of any entity, agent or contractor with which it has contracted to perform those functions within the State of Illinois, shall:
 - 1) Comply with applicable building and electrical codes, including those contained in the NEC;
 - 2) Comply with manufacturer's installation instructions;
 - 3) Install only new solar or wind projects that meet recognized industry standards; and
 - 4) Ensure that all obligations required under this Part and Sections 16-128(a) and 16-128A of the Act are met prior to placing into, or returning into, use any new solar or wind project that the certificate holder installed.
- c) The applicant certifies that it will comply with applicable licensing and municipal bonding requirements to do business in the State of Illinois.
- d) The applicant certifies that every installation of a new solar or new wind project will be performed only by:
 - 1) a qualified person; or
 - 2) an electrical contractor who is not a qualified person, provided he/she is directly supervised by a qualified person; or
 - 3) a person who is not a qualified person but is enrolled in a training program that, upon satisfactory completion, will meet the requirement to become a qualified person provided he/she is directly supervised by a qualified person.
- e) The applicant certifies that it is licensed to do business in the State of Illinois.

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Section 461.60 Certifications Conditioned Upon Compliance
EMERGENCY

Each certification issued to an applicant is conditioned upon compliance with the provisions of this Part and Sections 16-128(a) and 16-128A of the Act. Violation of this Part or the Act makes the certificate holder subject to penalties, including suspension, revocation, fines or a combination of sanctions.

Section 461.70 Annual Recertification and Reporting
EMERGENCY

- a) A certificate holder shall recertify annually to remain in good standing with the Commission. Recertification involves submitting a Recertification Report that includes the information required by subsection (c) of this Section and, for any late reports, any applicable late fees.
- b) By June 1 of each year, each certificate holder shall submit a recertification report identified with the name of the certificate holder as it appears in the most recent Commission order granting certification under this Part. The report shall be filed with the Chief Clerk of the Commission and shall be verified by a corporate officer pursuant to Section 200.130 of the Commission's "Rules of Practice" (83 Ill. Adm. Code 200.130).
- c) The recertification report shall contain the following information:
 - 1) A statement certifying that the certificate holder continues to maintain the required qualifications for the service authority granted in its certificate;
 - 2) A statement confirming the certificate holder's continuing compliance with all requirements set forth in this Part and Sections 16-128(a) and 16-128A of the Act;
 - 3) The name, telephone number, email address and mailing address of at least one person who is designated by the certificate holder to address questions pertaining to the report.

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- d) A certificate holder that does not submit a Recertification Report within 30 days of the June 1st annual recertification date is subject to late fees as specified in Section 461.110.

Section 461.80 Complaint Procedures**EMERGENCY**

Complaints regarding this Part and Sections 16-128(a) or 16-128A of the Act shall be filed in conformance with 83 Ill. Adm. Code 200.160 and 200.170 and 83 Ill. Adm. Code 280.170. The complaint shall comply with the Commission's Rules of Practice (83 Ill. Adm. Code 200).

Section 461.90 Commission Oversight**EMERGENCY**

- a) Upon complaint or on the Commission's own motion, the Commission may investigate all activities subject to this Part or Sections 16-128(a) or 16-128A of the Act, including violations of this Part or the statutes.
- b) If, after notice and hearing, the Commission determines that an entity has or is installing new solar or new wind projects without Commission certification required under this Part despite being notified by the Staff of the Commission to complete the certification process required under this Part, the Commission shall issue penalties for noncompliance.

Section 461.100 Maintenance of Records**EMERGENCY**

The applicant or certificate holder shall agree to adopt and follow procedures ensuring that documentation regarding the installation of new solar or new wind facilities are retained for a period of not less than three calendar years after the calendar year in which they were created. These records shall be made available by request to the Commission or its Staff on a confidential and proprietary basis.

Section 461.110 Fees**EMERGENCY**

- a) The following fees shall apply:
- | | |
|----------------------------------|---------|
| 1) Application for certification | \$3,500 |
|----------------------------------|---------|

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- | | | |
|----|------------------------|------|
| 2) | Annual recertification | None |
| 3) | Returned check fee | \$25 |
- b) The following fees may apply:
- | | | |
|----|---|----------|
| 1) | Late filing annual Recertification Report
(minimum \$100, maximum \$1,000) | \$10/day |
|----|---|----------|
- c) All fees are nonrefundable.
- d) All fees under this Part shall be paid by certified check, cashier's check or money order made payable to "Illinois Commerce Commission/Solar and Wind Certification". Each payment shall be accompanied by documentation identifying what fee is being paid, the applicant or certificate holders' name, address and Federal Employer Identification Number (FEIN)/Taxpayer Identification Number (TIN).

Section 461.120 Initial Compliance Date
EMERGENCY

The initial date for compliance with this Part is June 1, 2017.

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NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Certification for Energy Efficiency Installers
- 2) Code Citation: 83 Ill. Adm. Code 462
- 3)

<u>Section Numbers</u> :	<u>Emergency Actions</u> :
462.10	New Section
462.20	New Section
462.30	New Section
462.40	New Section
462.50	New Section
462.60	New Section
462.70	New Section
462.80	New Section
462.90	New Section
462.100	New Section
462.110	New Section
462.120	New Section
462.130	New Section
- 4) Statutory Authority: Implementing and authorized by Section 16-128B of the Public Utilities Act [220 ILCS 5/16-128B].
- 5) Effective Date of Rules: June 1, 2017
- 6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: Upon adoption of the proposed general rulemaking
- 7) Date Filed with the Index Department: June 1, 2017
- 8) A copy of the emergency rules, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: PA 99-906 authorizes the Agency to implement emergency rules to carry out certain provisions added by the legislation to the Public Utilities Act in new Section 16-128B [220 ILCS 5/16-128B]; the emergency rules address requirements contained in those provisions that take effect on June 1, 2017.

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- 10) A Complete Description of the Subjects and Issues Involved: PA 99-906 takes effect in June 1, 2017, amending a number of statutes related to energy and renewable resources. The legislation adds a new Section to the Public Utilities Act, Section 16-128B, concerning the certification of persons or entities that install energy efficiency measures. The legislation directs the Agency to promulgate rules to carry out the new provisions, and Section 16-128B(a) of the Public Utilities Act and Section 5-45(x) of the Illinois Administrative Procedure Act [5 ILCS 100/5-45(x)] authorize the Agency to do so on an emergency basis. New Part 462 is intended to address the requirements contained in new Section 16-128B.
- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: The emergency rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 13) Information and questions regarding these emergency rules shall be directed to:

Brian W. Allen
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/558-2387
fax: 217/524-8928

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF EMERGENCY RULES

TITLE 83: PUBLIC UTILITIES

CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 462
CERTIFICATION FOR ENERGY EFFICIENCY INSTALLERS

Section

462.10 Definitions

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AUTHORITY: Implementing Section 16-128B and authorized by Sections 16-128B and 10-101 of the Public Utilities Act [220 ILCS 5/16-128B and 10-101].

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SOURCE: Adopted by emergency rulemaking at 41 Ill. Reg. 7001, effective June 1, 2017, for a maximum of 150 days.

Section 462.10 Definitions**EMERGENCY**

Terms defined in Section 16-128B of the Public Utilities Act [220 ILCS 5/16-128B] shall have the same meaning for purposes of this Part as they have under Section 16-128B of the Public Utilities Act, unless further defined in this Part. The following terms, when used in this Part, shall have the meaning ascribed to them in this Section.

"Act" means the Public Utilities Act [220 ILCS 5].

"Applicant" means an entity seeking to be an Installer as defined in this Part that files an application with the Commission requesting certification pursuant to Section 16-128B of the Act.

"Best's financial size category" refers to a numerical value that A.M. Best Company or its successor assigns to an insurance company based on the amount of that insurance company's policyholders' surplus and reserve funds.

"Best's rating" refers to a rating from A.M. Best Company or its successor that provides an overall opinion of an insurance company's ability to meet its obligations to policyholders.

"Certificate holder" means an entity that has received certification pursuant to this Part.

"Commercial general liability insurance" means insurance that covers suits against the insured for personal injury and property damages.

"Commission" means the Illinois Commerce Commission.

"Company" has the same definition as found in Section 3-112 of the Act. [220 ILCS 5/3-112]

"Corporation" has the same definition as found in Section 3-113 of the Act. [220 ILCS 5/3-113]

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"Directly supervised" means that there is a qualified person on-site available for consultation and review of the installation energy efficiency measures performed by apprentices.

"DOL certification of satisfactory completion" means that person has received a nationally recognized and portable Certificate of Completion from a United States Department of Labor (DOL) registered apprenticeship program.

"DOL-registered electrician apprenticeship program" means an electrician apprenticeship training program that is certified by the DOL.

"Electric utility" means a *corporation, company, limited liability company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever that owns, controls, operates or manages, within Illinois, directly or indirectly, for public use, any plant, equipment or property used or to be used for or in connection with, or owns or controls any franchise, license, permit or right to engage in the production, storage, transmission, sale, delivery or furnishing of heat, cold, power, electricity; or a public utility, as defined in Section 3-105 of the Act, that has a franchise, license, permit or right to furnish or sell electricity to retail customers within a service area.* [220 ILCS 5/3-105 and 16-102.]

"Energy efficiency" has the same definition as found in Section 1-10 of the Illinois Power Agency Act [20 ILCS 3855/1-10].

"Entity" means a company or corporation or person or limited liability partnership that is involved in the business of performing installations of an energy efficiency measure or measures.

"Installer" means an entity that performs installations.

"Installation" means connecting, in accordance with applicable building and electrical codes, the conductors, connectors and all associated fittings, devices, or apparatuses mounted at the premises that are directly involved in delivering energy from the premises' electrical wiring to the energy efficiency measure. Installation does not include making electrical connections using Class 2 circuits as described in the NEC.

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"NEC" means the National Electrical Code adopted by the National Fire Protection Association, Inc., of 1 Batterymarch Park, Quincy, MA 02169 (NFPA 70), effective August 24, 2016.

"Person" has the same definition as found in Section 3-114 of the Act [220 ILCS 5/3-114].

"Premises and operations insurance" coverage pays for bodily injury or property damage that occurs on an entity's premises or as a result of an entity's business operations.

"Products and completed operations insurance" coverage pays for bodily injury and property damage that occurs away from an entity's business premises and is caused by the entity's products or completed work.

"Qualified person" means an individual who performs installations and who has either satisfactorily completed at least five installations, or has completed an apprenticeship as a journeyman electrician from a United States Department of Labor Registered Electrician Apprenticeship and Training Program, or graduated with a certificate or degree related to the duties of an Installer granted by an accredited educational institute.

"Self-Installer" means an individual who performs installations on premises owned or occupied by the individual or an employee who performs installations on premises owned or occupied by the employee's employer.

"Surplus Line Association of Illinois" is an organization of Illinois surplus line producers as defined in Section 445.1 of the Illinois Insurance Code [215 ILCS 5/445.1].

"Voltage optimization measures" optimize the voltage at points on the electric distribution voltage system and thereby reduce consumption by electric customers' end use devices.

Section 462.20 Applicability**EMERGENCY**

After January 1, 2018 with the exception of a Self-Installer, all Installers in the State of Illinois shall be subject to certification by the Commission under this Part.

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Section 462.30 Application Procedures**EMERGENCY**

- a) The applicant shall file its application for certification under this Part and provide all information required by this Part.
- b) Contents of documents filed by applicants shall be consistent with Subpart B of the Commission's Rules of Practice (83 Ill. Adm. Code 200).
- c) Applications for certification shall be submitted with the applicable fee payment.
- d) Applications for certification under this Part shall be filed with the Chief Clerk of the Commission and shall be verified pursuant to Section 200.130 of the Commission's Rules of Practice (83 Ill. Adm. Code 200.130). Applications by a corporation shall be verified by a corporate officer.
- e) An entity may complete the certification process after completing an installation.

Section 462.40 Required Application Information**EMERGENCY**

Applications for certification under this Part shall contain the following information:

- a) The applicant's name (including d/b/a, if any), street address, telephone number, facsimile number, website and e-mail address. The applicant shall provide the business name as it appears on its Illinois Secretary of State's office registration, including any and all assumed business names. This information shall be kept current and any change shall be filed with the Chief Clerk of the Commission within 15 days after the change occurs.
- b) Contact information including names, addresses, telephone numbers, facsimile numbers and e-mail addresses for persons or entities responsible for issues related to processing the application.
- c) Applicant's Federal Employer Identification Number (FEIN) or Taxpayer Identification Number (TIN), as applicable.

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- d) A certification that the applicant will comply with informational and reporting requirements established under this Part.
- e) A statement that the applicant agrees to accept service by electronic means as provided for in Section 200.1050 of the Commission's Rules of Practice (83 Ill. Adm. Code 200.1050).
- f) An applicant shall have in force, and provide proof that it has in force, general liability insurance that shall remain in effect for a period of not less than one year.
 - 1) The applicant shall be deemed to have sufficient commercial general liability insurance, which is comprised of premises and operations insurance and products and complete operations insurance. The commercial general liability insurance shall have a coverage limit of at least \$100,000 per occurrence and \$300,000 aggregate limits for bodily injury.
 - 2) In addition, the applicant shall have property damage insurance with limits of at least \$25,000 or shall have a policy with a single limit for bodily injury and property damage of at least \$300,000 per occurrence and \$300,000 aggregate limits.
 - 3) The commercial general liability insurance must be maintained with an insurance company whose Best's rating is A- or better and whose Best's financial size category is VII or larger that is either (i) authorized to transact business in Illinois, or (ii) whose contract of insurance is issued pursuant to Section 445 or 445a of the Illinois Insurance Code [215 ILCS 5/445 or 445a] and countersigned by the Surplus Line Association of Illinois or its successor.
 - 4) The applicant shall provide a certificate of insurance as part of its application for certification. If the applicant renews or makes changes in its insurance coverage, the insurance coverage must be continuous and without interruption. The certificate of insurance and the insurance policies shall contain a provision that coverage afforded under the policies shall not be cancelled, allowed to expire, or subjected to a reduction in the limits in any manner unless at least 30 days prior written notice (10 days' notice in the case of nonpayment of premium) has been given to the Commission. The applicant shall file a copy of the additional or

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replacement certificate of insurance with the Chief Clerk of the Commission and provide a copy to the "Policy Division – EE Installer Insurance Compliance" or its successor at least 15 days in advance of the effective date of the certificate of insurance. The filing shall include a cover letter that explains the purpose of the filing and shall be identified by the name of the applicant as it appears in the most recent Commission order granting the EE Installer certification.

Section 462.50 Certification Requirements**EMERGENCY**

An applicant shall be certified if its application satisfies the following requirements.

- a) The applicant certifies that it will remain in compliance with all applicable laws and regulations and Commission rules and orders including, but not limited to, the requirements of Sections 16-128(a) and 16-128B of the Act and this Part.
- b) The applicant certifies that it will ensure that its employees, agents or contractors that install energy efficiency measures, or the employees, agents or contractors of any entity, agent or contractor with which it has contracted to perform those functions within the State of Illinois, shall:
 - 1) Comply with applicable building and electrical codes, including those contained in the NEC; and
 - 2) Comply with the energy efficiency measure manufacturer's installation instructions;
- c) The applicant certifies that it will comply with applicable municipal licensing and bonding requirements to do business in the State of Illinois.
- d) The applicant certifies that every installation of an energy efficiency measure will only be performed by:
 - 1) a qualified person;
 - 2) a person licensed as an electrical contractor in at least one municipality in the State of Illinois who is not a qualified person, provided he/she is directly supervised by a qualified person; or

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- 3) a person enrolled in a training program that upon satisfactory completion will meet the requirement to become a qualified person, provided he/she is directly supervised by a qualified person.
- e) The applicant certifies that it is licensed to do business in the State of Illinois.

Section 462.60 Certifications Conditioned upon Compliance
EMERGENCY

Each certification issued to an applicant is conditioned upon compliance with the provisions of this Part and Sections 16-128(a) and 16-128B of the Act. Violation of this Part or the Act make the Installer subject to penalties, including certificate suspension, revocation, fines or a combination of sanctions.

Section 462.70 Annual Recertification and Reporting
EMERGENCY

- a) A certificate holder shall recertify annually to remain in good standing with the Commission. Recertification involves submitting a Recertification Report that includes the information required by subsection (c) of this Section and, for any late reports, any applicable late fees.
- b) By June 1 of each year, each certificate holder shall submit a Recertification Report identified with the name of the certificate holder as it appears in the most recent Commission order granting certification under this Part. The report shall be filed with the Chief Clerk of the Commission and shall be verified by a corporate officer pursuant to Section 200.130 of the Commission's Rules of Practice (83 Ill. Adm. Code 200.130).
- c) The Recertification Report shall contain the following information:
 - 1) A statement certifying that the certificate holder continues to maintain the required qualifications for the service authority granted in its certificate;
 - 2) A statement confirming the certificate holder's continuing compliance with all requirements set forth in this Part and Sections 16-128(a) and 16-128B of the Act; and

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- 3) The number of energy efficiency measure installations that a certificate-holder installed classified as residential or commercial during the prior calendar year.
- 4) All reports shall provide the name, telephone number, email address and mailing address of at least one person designated by the certificate holder to address questions pertaining to the report.
- d) The report shall not contain customer identifying information.
- e) A certificate holder that does not submit a Recertification Report within 30 days of the June 1 annual recertification date is subject to late fees as specified in Section 462.110.

Section 462.80 Complaint Procedures**EMERGENCY**

Complaints shall be filed in conformance with 83 Ill. Adm. Code 200.160, 200.170 and 83 Ill. Adm. Code 280.170. The complaint shall comply with the Commission's Rules of Practice (83 Ill. Adm. Code 200).

Section 462.90 Commission Oversight**EMERGENCY**

- a) Upon complaint or on the Commission's own motion, the Commission may investigate any and all activities subject to this Part or Sections 16-128(a) and 16-128B of the Act, including violations of this Part or of Sections 16-128(a) and 16-128B of the Act.
- b) If, after notice and hearing, the Commission determines that an entity is performing the work of an Installer without completing Commission certification required under this Part despite being notified by the Staff of the Commission to complete the Installer certification process required under this Part, the Commission shall issue penalties for noncompliance.

Section 462.100 Maintenance of Records**EMERGENCY**

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The applicant or certificate holder shall agree to adopt and follow rules and procedures ensuring that documentation regarding installations are retained for a period of not less than three calendar years after the calendar year in which they were created. These records shall be made available by request to the Commission or its Staff on a confidential and proprietary basis.

Section 462.110 Fees**EMERGENCY**

- a) The following fees shall apply:
 - 1) Application for certification \$100
 - 2) Annual recertification None
 - 3) Returned check fee \$25
- b) The following fees may apply:
 - 1) Late filing annual Recertification Report (minimum \$100, maximum \$1,000) \$10/day
- c) All fees are nonrefundable.
- d) All fees under this Part shall be paid by certified check, cashier's check or money order made payable to "Illinois Commerce Commission/EE Installer Certification". Each payment shall be accompanied by documentation identifying what fee is being paid, the applicant or certificate holder's name, address and Federal Employer Identification Number (FEIN)/Taxpayer Identification Number (TIN).

Section 462.120 Obligations of Electric Utilities**EMERGENCY**

An electric utility shall not issue rebates or other energy efficiency incentives greater than \$300 for the installation of energy efficiency measures covered by this Part to a retail customer, unless the electric utility receives from the customer:

- a) a certification that the person installing the energy efficiency measure covered by this Part was a Self-Installer; or

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- b) evidence that the energy efficiency measure covered by this Part was installed by an entity certified under this Part that is also in good standing with the Commission.

Section 462.130 Initial Compliance Date

EMERGENCY

The initial date for compliance with this Part is January 1, 2018.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENT

- 1) Heading of the Part: Schedule of Controlled Substances
- 2) Code Citation: 77 Ill. Adm. Code 2070
- 3) Section Number: 2070.619 Peremptory Action:
New Section
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires this Peremptory Rulemaking: These changes are being made to conform with the Federal Controlled Substances Act (21 USC 801 et seq.) and the Federal Schedule of Controlled Substances (21 CFR 1308).
- 5) Statutory Authority: Implementing and authorized by Section 100 of the Illinois Controlled Substances Act [720 ILCS 570/100].
- 6) Effective Date of Rule: June 1, 2017
- 7) A Complete Description of the Subjects and Issues Involved: This peremptory amendment is necessary to comply with the amendments to 21 CFR 1308, the Drug Enforcement Administration's (DEA) Schedule of Controlled Substances, which became effective May 3, 2017. The Administrator of the DEA scheduled the synthetic opioid, N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (4-fluoroisobutyryl fentanyl or para-fluoroisobutyryl fentanyl), and its isomers, esters, ethers, salts and salts of isomers, esters, and ethers, into schedule I of the Controlled Substances Act (21 USC 801 et seq.). The peremptory amendment mirrors the Drug Enforcement Administration's amendments to its Schedule of Controlled Substances by placing the synthetic opioid, N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (4-fluoroisobutyryl fentanyl or para-fluoroisobutyryl fentanyl), and its isomers, esters, ethers, salts and salts of isomers, esters, and ethers into Illinois' list of Schedule I substances, ensuring that Illinois' Schedule of Controlled Substances (77 Ill. Adm. Code 2070) contains all of the federally scheduled controlled substances.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed with the Index Department: June 1, 2017
- 10) A copy of the peremptory rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

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NOTICE OF PEREMPTORY AMENDMENT

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

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

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER e: CONTROLLED SUBSTANCES ACTIVITIESPART 2070
SCHEDULE OF CONTROLLED SUBSTANCES

SUBPART A: GENERAL

Section	
2070.10	Definitions
2070.20	Designated Products
2070.30	Names Given to Listed Drugs
2070.40	Excluded Substances
2070.50	Excepted Compounds

SUBPART B: SCHEDULE OF CONTROLLED SUBSTANCES – SCHEDULE I

Section	
2070.100	Schedule I – Criteria
2070.110	Schedule I – Enumeration
2070.115	Opiates
2070.117	AB-CHMINACA <i>N</i> -(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1 <i>H</i> -indazole-3-carboxamide
2070.118	AB-PINACA <i>N</i> -(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1 <i>H</i> -indazole-3-carboxamide
2070.120	Acetylmethadol
2070.122	Acetyl-alpha-methylfentanyl
2070.124	Alfentanil (Renumbered)
2070.125	Allylprodine
2070.130	Alphacetylmethadol
2070.135	Alphameprodine
2070.140	Alphamethadol
2070.145	Alpha-methylfentanyl
2070.146	Alpha-methylthiofentanyl
2070.147	1-methyl-4-phenyl-4-propionoxypiperdine (MPPP)
2070.148	PEPAP 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperdine
2070.150	Benzethidine
2070.155	Betacetylmethadol

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2070.157	Beta-hydroxyfentanyl
2070.160	Betameprodine
2070.165	Betamethadol
2070.170	Betaprodine
2070.175	Clonitazene
2070.180	Dextromoramide
2070.185	Diampromide
2070.190	Diethylthiambutene
2070.195	Difenoxin
2070.200	Dimenoxadol
2070.205	Dimepheptanol
2070.210	Dimethylthiambutene
2070.220	Dioxaphetylbutyrate
2070.230	Dipipanone
2070.235	Ethylmethylthiambutene
2070.240	Etonitazene
2070.245	Etoxidine
2070.247	3-Methylfentanyl (Renumbered)
2070.250	Furethidine
2070.255	Hydroxypethidine
2070.260	Ketobemidone
2070.265	Levomoramide
2070.270	Levophenacylmorphan
2070.271	U-47700
2070.272	3-Methylfentanyl
2070.273	3-Methylthiofentanyl
2070.275	Morpheridine
2070.280	Noracymethadol
2070.285	Norlevorphanol
2070.290	Normethadone
2070.295	Norpipanone
2070.297	Para-fluorofentanyl
2070.300	Phenadoxone
2070.310	Phenamprodine
2070.320	Phenomorphin
2070.330	Phenoperidine
2070.340	Piritramide
2070.350	Proheptazine
2070.360	Properidine

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2070.370	Propiram
2070.380	Racemoramide
2070.385	Sufentanil (Renumbered)
2070.388	Thiofentanyl
2070.389	THJ-2201 [1-(5-fluoropentyl)-1 <i>H</i> -indazol-3-yl](naphthalen-1-yl)methanone
2070.390	Tilidine
2070.395	Trimeperidine
2070.397	Beta-hydroxy-3-methylfentanyl
2070.400	Opium Derivates
2070.405	Acetorphine
2070.410	Acetyldihydrocodeine
2070.412	Alpha-pyrrolidinobutiophenone ("a-PBP")
2070.414	Alpha-pyrrolidinopentiophenone ("a-PVP")
2070.415	Benzylmorphine
2070.420	Codeine methylbromide
2070.425	Codeine-N-Oxide
2070.430	Cyprenorphine
2070.435	Desomorphine
2070.440	Diacetyldihydromorphine (Dihydroheroin)
2070.445	Dihydromorphine
2070.450	Drotebanol
2070.455	Etorphine (except hydrochloride salt)
2070.460	Heroin
2070.465	Hydromorphenol
2070.470	Methyl-desorphine
2070.475	Methyldihydromorphine
2070.480	Morphine methylbromide
2070.485	Morphine methylsulfonate
2070.490	Morphine-N-Oxide
2070.495	Myrophine
2070.500	Nicocodeine
2070.505	Nicomorphine
2070.510	Normorphine
2070.515	Pholcodine
2070.520	Thebacon
2070.530	1-(1,3-benzodioxol-5-yl)-2(methylamino)butan-1-one ("butylone")
2070.540	1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one ("pentylone")
2070.545	1-(naphthalene-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one ("naphyrone")
2070.600	Hallucinogenic Substances

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2070.602	2-(methylamino)-1-phenylpentan-1-one ("pentedrone")
2070.604	3-fluoro-N-methylcathinone ("3-FMC")
2070.605	3, 4 Methylenedioxyamphetamine
2070.606	Alpha-ethyltryptamine
2070.607	3,4 Methylenedioxymethamphetamine (MDMA)
2070.608	3,4-methylendioxy-N-ethylamphetamine
2070.610	3-methoxy-4, 5-methylenedioxyamphetamine (MMDA)
2070.615	3, 4, 5-trimethoxyamphetamine (TMA)
2070.616	4-fluoro-N-methylcathinone ("4-FMC")
2070.617	4-methyl-N-ethylcathinone ("4MEC")
2070.618	4-methylalpha-pyrrolidinopropiophenone ("4-MePPP")
2070.619	N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (4-fluoroisobutyryl fentanyl or para-fluoroisobutyryl fentanyl)
2070.620	5-hydroxydimethyltryptamine (Bufotenine)
2070.625	Diethyltryptamine (DET)
2070.630	Dimethyltryptamine (DMT)
2070.635	4-methyl, 2, 5-dimethoxyamphetamine (DOM, STP)
2070.640	Ibogaine
2070.645	Lysergic acid diethylamide
2070.650	3, 4, 5-trimethoxyphenethylamine (Mescaline)
2070.655	Peyote
2070.660	N-ethyl-3-piperidyl benzilate (JB 318)
2070.665	N-methyl-3-piperidyl benzilate
2070.667	N-hydroxy-3,4-methylenedioxyamphetamine
2070.670	Parahexyl
2070.675	Psilocybin
2070.680	Psilocyn
2070.685	Alpha-methyltryptamine (AMT)
2070.690	2,5-dimethoxyamphetamine
2070.695	4-bromo-2,5-dimethoxyamphetamine
2070.700	4-methoxyamphetamine (4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine, PMA)
2070.705	Thiophene analog of phencyclidine (TPCP)
2070.710	Ethylamine analog of phencyclidine
2070.715	Pyrrolidine analog of phencyclidine
2070.720	5-methoxy-3,4-methylenedioxy-amphetamine
2070.725	2,5-dimethoxy-4-ethylamphetamine
2070.730	1-[1-(2-thienyl) cyclohexyl] pyrrolidine
2070.735	3,4-methylenedioxy-amphetamine

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2070.740	Thiophene analog of phencyclidine
2070.745	Bufotenine
2070.750	Depressants
2070.755	Mecloqualone
2070.760	Methaqualone
2070.800	Stimulants
2070.805	Fenethylamine
2070.810	N-ethylamphetamine
2070.815	Aminorex
2070.820	Methcathinone
2070.825	Chathinone
2070.830	N,N-dimethylamphetamine
2070.835	(+ or -) cis-4-methylaminorex

SUBPART C: SCHEDULE OF CONTROLLED SUBSTANCES – SCHEDULE II

Section	
2070.900	Schedule II – Criteria
2070.910	Schedule II – Enumeration
2070.915	Narcotics
2070.920	Opium and Opiates
2070.925	Raw Opium
2070.930	Opium Extracts
2070.935	Opium Fluid Extracts
2070.940	Powdered Opium
2070.945	Granulated Opium
2070.950	Tincture of Opium
2070.955	Codeine
2070.960	Ethylmorphine
2070.965	Etorphine Hydrochloride
2070.970	Hydrocodone
2070.975	Hydromorphone
2070.980	Metopon
2070.985	Morphine
2070.990	Oxycodone
2070.995	Oxymorphone
2070.998	Thebaine
2070.999	Thebaine-derived butorphanol
2070.1100	Equivalencies

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2070.1110	Opium poppy and poppy straw
2070.1120	Cocaine
2070.1130	Concentrate of Poppy Straw
2070.1150	Opiates
2070.1155	Alphaprodine
2070.1160	Anileridine
2070.1165	Bezitramide
2070.1170	Bulk Dextropropoxyphene
2070.1175	Dihydrocodeine
2070.1180	Diphenoxylate
2070.1185	Fentanyl
2070.1186	Alfentanil
2070.1187	Carfentanil
2070.1190	Isomethadone
2070.1193	Levo-alphaacetylmethadol
2070.1195	Levomethorphan
2070.1200	Levorphanol
2070.1205	Metazocine
2070.1210	Methadone
2070.1215	Methadone – Intermediate
2070.1220	Moramide – Intermediate
2070.1225	Meperidine
2070.1230	Pethidine-Intermediate-A
2070.1235	Pethidine-Intermediate-B
2070.1240	Pethidine-Intermediate-C
2070.1245	Phenazocine
2070.1250	Piminodine
2070.1255	Racemethorphan
2070.1260	Racemorphan
2070.1265	Sufentanil
2070.1300	Stimulants
2070.1310	Amphetamine
2070.1320	Methamphetamine
2070.1330	Methylphenidate
2070.1370	Phenmetrazine
2070.1400	Depressants
2070.1405	Methaqualone (Renumbered)
2070.1410	Amobarbital
2070.1420	Secobarbital

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2070.1425	Pentobarbital
2070.1430	Phencyclidine
2070.1435	Pentazocine
2070.1438	Gluthethimide
2070.1500	Immediate Precursors
2070.1505	Amphetamine and Methamphetamine
2070.1510	Phencyclidine
2070.1520	Nabilone
2070.1550	Dronabinol (synthetic)

SUBPART D: SCHEDULE OF CONTROLLED SUBSTANCES – SCHEDULE III

Section	
2070.1600	Schedule III – Criteria
2070.1605	Schedule III – Enumeration
2070.1610	Stimulants
2070.1615	Excepted Compounds
2070.1620	Benzphetamine
2070.1625	Chlorphentermine
2070.1630	Clortermine
2070.1635	Mazindol (Renumbered)
2070.1640	Phendimetrazine
2070.1700	Other Stimulants
2070.1750	Methylphenidate (Renumbered)
2070.1800	Depressants
2070.1805	Barbiturates
2070.1810	Barbiturates – Suppository Dosage Form
2070.1825	Derivatives of Barbituric Acid
2070.1830	Chlorhexadol
2070.1835	Glutethimide (Renumbered)
2070.1840	Methyprylon
2070.1845	Sulfondiethylmethane
2070.1850	Sulfonethylmethane
2070.1855	Sulfonmethane
2070.1860	Lysergic Acid
2070.1865	Lysergic Acid Amide
2070.1868	Tiletamine or Zolazepam or Both
2070.1870	Pentazocine and Aspirin Compound
2070.1875	Pentazocine and Acetaminophine

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2070.1880	Pentazocine and Naloxone
2070.1890	Nalorphine
2070.1900	Narcotic Drugs
2070.1905	Codeine
2070.1910	Codeine
2070.1915	Dihydrocodeinone
2070.1920	Dihydrocodeinone
2070.1925	Dihydrocodeine
2070.1930	Ethylmorphine
2070.1935	Opium
2070.1940	Morphine
2070.1960	Anabolic Steroids
2070.1962	Androgen L.A.
2070.1964	Andro-Estro 90-4
2070.1966	depANDROGYN
2070.1968	DEPO-T.E.
2070.1970	depTESTROGEN
2070.1972	Duomone
2070.1974	DURATESTRIN
2070.1976	DUO-SPAN II
2070.1978	Estratest
2070.1980	Estratest H.S.
2070.1982	PAN ESTRA TEST
2070.1984	Premarin with Methyltestosterone
2070.1986	TEST-ESTRO Cypionates
2070.1988	Testosterone Cyp 50 Estradiol Cyp 2
2070.1990	Testosterone Cypionate-Estradiol Cypionate Injection
2070.1992	Testosterone Enanthate-Estradiol Valerate Injection
2070.2000	Excepted Compounds

SUBPART E: SCHEDULE OF CONTROLLED SUBSTANCES – SCHEDULE IV

Section	
2070.2100	Schedule IV – Criteria
2070.2105	Schedule IV – Enumeration
2070.2110	Narcotic Drugs
2070.2115	Difenoxin and Atropine Sulfate
2070.2120	Dextropropoxyphene
2070.2200	Depressants

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2070.2210	Alprazolam
2070.2215	Barbital
2070.2217	Bromazepam
2070.2218	Camazepam
2070.2220	Chloral Betaine
2070.2225	Chloral Hydrate
2070.2230	Chlordiazepoxide
2070.2232	Clobazam
2070.2235	Clonazepam
2070.2240	Clorazepate
2070.2241	Clotiazepam
2070.2242	Cloxazolam
2070.2244	Delorazepam
2070.2245	Diazepam
2070.2246	Eluxadoline
2070.2248	Estazolam
2070.2250	Ethchlorvynol
2070.2255	Ethinamate
2070.2256	Ethyl Loflazepate
2070.2258	Fludiazepam
2070.2259	Flunitrazepam
2070.2260	Flurazepam
2070.2265	Halazepam
2070.2266	Haloxazolam
2070.2268	Ketazolam
2070.2269	Loprazolam
2070.2270	Lorazepam
2070.2272	Lormetazepam
2070.2275	Mebutamate
2070.2277	Medazepam
2070.2280	Meprobamate
2070.2285	Methohexital
2070.2290	Mephobarbital
2070.2291	Midazolam
2070.2292	Nimetazepam
2070.2293	Nitrazepam
2070.2294	Nordiazepam
2070.2295	Oxazepam
2070.2297	Oxazolam

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2070.2300	Paraldehyde
2070.2305	Petrichloral
2070.2310	Phenobarbital
2070.2312	Pinazepam
2070.2315	Prazepam
2070.2317	Quazepam
2070.2320	Temazepam
2070.2322	Tetrazepam
2070.2325	Triazolam
2070.2350	Zolpidam
2070.2400	Fenfuramine
2070.2500	Stimulants
2070.2503	Cathine
2070.2505	Diethylpropion
2070.2515	Fencamfamin
2070.2520	Fenproporex
2070.2540	Mazindol
2070.2545	Mefenorex
2070.2650	Stimulants
2070.2655	Ephedrine
2070.2565	Phentermine
2070.2570	Pemoline
2070.2575	Pipradrol
2070.2580	SPA
2070.2600	Excepted Compounds

SUBPART F: SCHEDULE OF CONTROLLED SUBSTANCES – SCHEDULE V

Section	
2070.2700	Schedule V – Criteria
2070.2705	Schedule V – Enumeration
2070.2710	Narcotic Drugs
2070.2712	Buprenorphine
2070.2715	Codeine
2070.2720	Dihydrocodeine
2070.2725	Ethylmorphine
2070.2730	Diphenoxylate
2070.2735	Opium
2070.2740	Difenoxin

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2070.2750 Pyrovalerone
2070.2800 Other Substances

AUTHORITY: Implementing and authorized by Section 100 of the Illinois Controlled Substances Act [720 ILCS 570/100].

SOURCE: Filed and effective November 19, 1975; rules repealed, new rules adopted at 2 Ill. Reg. 16, p. 151, effective April 24, 1978; amended at 2 Ill. Reg. 33, p. 63, effective August 15, 1978; amended at 2 Ill. Reg. 44, p. 127, effective October 30, 1978; amended at 2 Ill. Reg. 45, p. 19, effective November 10, 1978; amended at 2 Ill. Reg. 52, p. 283, effective January 5, 1979; amended at 3 Ill. Reg. 8, p. 112, effective February 23, 1979; amended at 3 Ill. Reg. 12, p. 246, effective March 23, 1979; amended at 4 Ill. Reg. 33, p. 193, effective August 4, 1980; amended at 5 Ill. Reg. 2987, effective March 5, 1981; amended at 5 Ill. Reg. 5156, effective April 29, 1981; amended at 5 Ill. Reg. 13454, effective November 25, 1981; amended at 6 Ill. Reg. 5176, effective April 16, 1982; amended at 6 Ill. Reg. 7200, effective June 7, 1982; amended at 7 Ill. Reg. 16142, effective December 2, 1983; amended at 7 Ill. Reg. 16639, effective December 9, 1983; transferred to the Department of Alcoholism and Substance Abuse by the Alcoholism and Substance Abuse Act (supp. to Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 634 et seq.) effective July 1, 1984; amended at 8 Ill. Reg. 13138, effective July 27, 1984; amended at 8 Ill. Reg. 16760, effective September 14, 1984; codified at 8 Ill. Reg. 19319; amended at 8 Ill. Reg. 21212, effective October 19, 1984; amended at 9 Ill. Reg. 1837, effective January 29, 1985; amended at 9 Ill. Reg. 10649, effective July 2, 1985; amended at 10 Ill. Reg. 914, effective January 7, 1986; amended at 10 Ill. Reg. 11222, effective June 16, 1986; emergency amendment at 10 Ill. Reg. 15662, effective September 10, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18159, effective October 8, 1986; amended at 10 Ill. Reg. 19709, effective November 6, 1986; emergency amendment at 11 Ill. Reg. 4048, effective February 24, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 5192, effective March 17, 1987; amended at 11 Ill. Reg. 11944, effective July 2, 1987; amended at 20 Ill. Reg. 3081, effective February 2, 1996; recodified from Department of Alcoholism and Substance Abuse to Department of Human Services at 21 Ill. Reg. 9319; preemptory amendment at 38 Ill. Reg. 8439, effective April 7, 2014; preemptory amendment at 39 Ill. Reg. 3171, effective February 13, 2015; preemptory amendment at 39 Ill. Reg. 16482, effective December 17, 2015; emergency amendment at 40 Ill. Reg. 13718, effective September 13, 2016, for a maximum of 150 days; amended at 41 Ill. Reg. 1801, effective January 25, 2017; preemptory amendment at 41 Ill. Reg. 7014, effective June 1, 2017.

SUBPART B: SCHEDULE OF CONTROLLED SUBSTANCES – SCHEDULE I

[Section 2070.619 N-\(4-fluorophenyl\)-N-\(1-phenethylpiperidin-4-yl\)isobutyramide \(4-fluoroisobutyryl fentanyl or para-fluoroisobutyryl fentanyl\)](#)

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N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (4-fluoroisobutyryl fentanyl or para-fluoroisobutyryl fentanyl), and its isomers, esters, ethers, salts and salts of isomers, esters and ethers.

(Source: Added by peremptory rulemaking at 41 Ill. Reg. 7014, effective June 1, 2017)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

JULY 2017 REGULATORY AGENDA

- a) Part (Heading and Code Citation): The Administration and Operation of the Teachers' Retirement System, 80 Ill. Adm. Code 1650
- 1) Rulemaking:
- A) Description: Clarify disability benefit application procedures, offset of benefit overpayments and other administrative matters pertaining to Tier II.
- B) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16].
- C) Scheduled meeting/hearing dates: There is no proposed schedule of dates for meetings/hearings at this time.
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Sandy Cochran
Teachers' Retirement System
Office of Legal Counsel
P.O. Box 19253
2815 West Washington
Springfield IL 62794-9253

217/753-0375
- G) Related rulemakings and other pertinent information: None

ILLINOIS ADMINISTRATIVE CODE
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