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April 5, 2019 Volume 43, Issue 14

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## INTRODUCTION

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

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

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

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

## ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2019

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 26, 2018	January 4, 2019
2	December 31, 2018	January 11, 2019
3	January 7, 2019	January 18, 2019
4	January 14, 2019	January 25, 2019
5	January 22, 2019	February 1, 2019
6	January 28, 2019	February 8, 2019
7	February 4, 2019	February 15, 2019
8	February 11, 2019	February 22, 2019
9	February 19, 2019	March 1, 2019
10	February 25, 2019	March 8, 2019
11	March 4, 2019	March 15, 2019
12	March 11, 2019	March 22, 2019
13	March 18, 2019	March 29, 2019
14	March 25, 2019	April 5, 2019
15	April 1, 2019	April 12, 2019
16	April 8, 2019	April 19, 2019
17	April 15, 2019	April 26, 2019
18	April 22, 2019	May 3, 2019
19	April 29, 2019	May 10, 2019
20	May 6, 2019	May 17, 2019
21	May 13, 2019	May 24, 2019
22	May 20, 2019	May 31, 2019

23	May 28, 2019	June 7, 2019
24	June 3, 2019	June 14, 2019
25	June 10, 2019	June 21, 2019
26	June 17, 2019	June 28, 2019
27	June 24, 2019	July 5, 2019
28	July 1, 2019	July 12, 2019
29	July 8, 2019	July 19, 2019
30	July 15, 2019	July 26, 2019
31	July 22, 2019	August 2, 2019
32	July 29, 2019	August 9, 2019
33	August 5, 2019	August 16, 2019
34	August 12, 2019	August 23, 2019
35	August 19, 2019	August 30, 2019
36	August 26, 2019	September 6, 2019
37	September 3, 2019	September 13, 2019
38	September 9, 2019	September 20, 2019
39	September 16, 2019	September 27, 2019
40	September 23, 2019	October 4, 2019
41	September 30, 2019	October 11, 2019
42	October 7, 2019	October 18, 2019
43	October 15, 2019	October 25, 2019
44	October 21, 2019	November 1, 2019
45	October 28, 2019	November 8, 2019
46	November 4, 2019	November 15, 2019
47	November 12, 2019	November 22, 2019
48	November 18, 2019	December 2, 2019
49	November 25, 2019	December 6, 2019
50	December 2, 2019	December 13, 2019
51	December 9, 2019	December 20, 2019
52	December 16, 2019	December 27, 2019

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Illinois Pesticide Act
- 2) Code Citation: 8 Ill. Adm. Code 250
- 3) Section Number: 250.220                      Proposed Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Pesticide Act [450 ILCS 60].
- 5) A Complete Description of the Subjects and Issues Involved: Updates qualifications for applicators of herbicide products on public lands to include participants in a supervised youth job training program.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency 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? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Albert A. Coll  
Assistant General Counsel  
Illinois Department of Agriculture  
State Fairgrounds, P.O. Box 19281  
Springfield IL 62794-9281

217/782-4051

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT

fax: 217/785-4505

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no adverse impact to small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda because it was not anticipated.

The full text of the Proposed Amendment is identical to that of the text of the Emergency amendment for this Part, and begins on page: 4340.

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Municipal Urban Agricultural Areas
- 2) Code Citation: 8 Ill. Adm. Code 955
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
955.10	New Section
955.20	New Section
955.30	New Section
955.40	New Section
955.50	New Section
955.60	New Section
- 4) Statutory Authority: Implementing and authorized by Article 15.4 of the Illinois Municipal Code [65 ILCS 5/11-15.4] and Section 205-65 of the Civil Administrative Code of Illinois [20 ILCS 205/205-65].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules complete the Department's responsibilities to establish new rules as required by Section 205-65 of the Civil Administrative Code of Illinois [20 ILCS 205/205-65]. The rules establish the definition of a Qualified Farmer. The rules will be used by Urban Agricultural Area Committees to determine eligibility of Urban Agricultural Area applicants. The rules will also provide a mechanism by which Urban Agricultural Areas may obtain an opinion from the Department.
- 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? Yes  
Article 15.4 of the Illinois Municipal Code [65 ILCS 5/11-15.4]
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED RULES

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:
- Pamela Harmon  
Illinois Department of Agriculture  
State Fairgrounds, P. O. Box 19281  
Springfield IL 62794-9281
- 217/524-6905  
fax: 217/785-4505
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no adverse impact to small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda because it was not anticipated.

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

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED RULES

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER u: GENERAL RULESPART 955  
MUNICIPAL URBAN AGRICULTURAL AREAS

## SUBPART A: PURPOSE AND DEFINITIONS

## Section

955.10	Purpose and General Definitions
955.20	Definition of Beginning Farmer
955.30	Definition of Small- or Medium-Sized Farmer
955.40	Definition of Limited Resource Farmer
955.50	Definition of Socially-Disadvantaged Farmer

## SUBPART B: GENERAL PROVISIONS

## Section

955.60	Advisory Opinions from the Department
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AUTHORITY: Implementing and authorized by Article 11, Division 15.4 of the Illinois Municipal Code [65 ILCS 5] and Section 205-65 of the Department of Agriculture Law [20 ILCS 205].

SOURCE: Adopted at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: PURPOSE AND DEFINITIONS

**Section 955.10 Purpose and General Definitions**

- a) Purpose  
The purpose of this Part is to establish definitions to determine the status of a "qualifying farmer" under the Act, and to outline the process to obtain an advisory opinion from the Department.
- b) Definitions  
The Department incorporates by reference the definitions of terms in Article 11, Division 15.4 of the Illinois Municipal Code [65 ILCS 5].

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED RULES

"Act" means Article 11, Division 15.4 of the Illinois Municipal Code [65 ILCS 5].

"Department" means the Illinois Department of Agriculture.

"Farmer" means a person who has filed an urban agricultural area application with an urban agricultural area committee.

"Urban agricultural area" means an area defined by a municipality and entirely within that municipality's boundaries within which one or more qualifying farmers are processing, growing, raising, or otherwise producing locally-grown agricultural products, as defined by the Act.

"Urban agricultural area committee" means a committee established under the Act, organized for the purpose of reviewing applications for urban agricultural areas.

"Secretary" means the Secretary of the U.S. Department of Agriculture.

**Section 955.20 Definition of Beginning Farmer**

- a) Source  
The Department incorporates the Secretary's definition of a beginning farmer as stated in subsection (b).
- b) Definition
  - 1) A beginning farmer is a farmer that has:
    - A) not operated a farm, or who has not operated a farm for not more than 10 consecutive years. This requirement applies to all members of an entity that operates as a farmer; and
    - B) will materially and substantially participate in the operation of the farm.
  - 2) In the case of a contract with an individual, individually or with the immediate family, "material and substantial participation" requires that the individual provide substantial day-to-day labor and management of the

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED RULES

farm or ranch, consistent with the practices in the county where the farm is located.

- 3) In the case of a contract with an entity, all members must materially and substantially participate in the operation of the farm or ranch. Material and substantial participation requires that each of the members provide some amount of the management, or labor and management, necessary for day-to-day activities, such that, if each of the members did not provide these inputs, operation of the farm or ranch would be seriously impaired.

**Section 955.30 Definition of Small- or Medium-Sized Farmer**

## Definition

A small- or medium-sized farmer means a farmer who has received a Direct Farm Ownership Microloan, or a Direct Farm Operating Microloan, through the USDA Microloan Program.

**Section 955.40 Definition of Limited Resource Farmer**

- a) Source  
The Department incorporates the Secretary's definition of a limited resource farmer as stated in subsection (b).
- b) Definition
  - 1) A limited resource farmer is a farmer that has:
    - A) direct or indirect gross farm sales that are less than the current indexed value in each of the previous 2 years; and
    - B) a total household income at or below the national poverty level for a family of 4, or less than 50% of the county median household income in each of the previous 2 years.
  - 2) An entity or joint operation can be a limited resource farmer if all individual members independently qualify.

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED RULES

- 3) The Secretary maintains an online tool that allow users to determine whether they meet the qualifications to be a limited resource farmer ([https://lrftool.sc.egov.usda.gov/LRP\\_Definition.aspx](https://lrftool.sc.egov.usda.gov/LRP_Definition.aspx)).

**Section 955.50 Definition of Socially-Disadvantaged Farmer**

- a) Source  
The Department incorporates the Secretary's definition of a socially-disadvantaged farmer as stated in subsection (b).
- b) Definition
  - 1) A socially-disadvantaged farmer is a farmer that is a member of a socially disadvantaged group. A socially disadvantaged group is a group whose members have been subject to racial or ethnic prejudice because of their identity as members of a group, without regard to their individual qualities. These groups consist of the following:
    - A) American Indians or Alaskan Natives;
    - B) Asians;
    - C) Blacks or African Americans;
    - D) Native Hawaiians or other Pacific Islanders; and
    - E) Hispanics.
  - 2) A socially disadvantaged farmer may be an individual or entity who is a member of a socially disadvantaged group. For an entity, at least 50% ownership in the farm business must be held by socially-disadvantaged individuals.

## SUBPART B: GENERAL PROVISIONS

**Section 955.60 Advisory Opinions from the Department**

- a) Requesting an Opinion

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED RULES

An urban agricultural area committee that desires an opinion from the Department as to whether an applicant meets one of the definitions to be considered a qualifying farmer under the Act may request that opinion in writing. The request for an opinion should include the application and all relevant materials. The request should be sent to:

Illinois Department of Agriculture  
Attn: Director  
P.O. Box 19281  
Springfield IL 62794-9281

- b) Department's Response  
Upon receiving a request for an opinion, the Director shall review and, within 90 days after the date of receipt of the request, notify the urban agricultural area committee in writing of his or her opinion. The written opinion will constitute a "decision" under the Administrative Review Act [735 ILCS 5/Art. III].

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill. Adm. Code 113
- 3) Section Number: 113.10                      Proposed Action:  
Amendment
- 4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13], 8 USCA 1253(h) prior to September 30, 1996 and 8 USCA 1231(b)(3) on or after September 30, 1996.
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking updates the Immigration and Nationality Act (INA) specification/classification for non-citizen under IDHS' Aid to the Aged, Blind or Disabled (AABD) program.
- 6) Any published studies or reports, along with the sources of underlying data that were used when composing this rulemaking? None
- 7) Will this rulemaking replace an 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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
113.253	Amendment	43 Ill. Reg. 1240; January 18, 2019
113.260	Amendment	43 Ill. Reg. 1240; January 18, 2019
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this amendment within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENT

Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3rd Floor  
Springfield IL 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on either of the two most recent regulatory agendas because the need for it was not anticipated.

The full text of the Proposed Amendment is identical to the Emergency Amendment being published in this issue of the *Illinois Register* on page: 4346.

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Administrative Hearing Rules

2) Code Citation: 56 Ill. Adm. Code 2605

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2605.20	Amendment
2605.40	Amendment
2605.50	Amendment
2605.60	Amendment
2605.70	Amendment
2605.80	Amendment
2605.100	Amendment
2605.110	Amendment
2605.120	Amendment
2605.130	Amendment
2605.140	Amendment
2605.150	Amendment
2605.170	Amendment
2605.180	Amendment
2605.200	Amendment
2605.210	Amendment
2605.220	Amendment
2605.230	Amendment
2605.240	Amendment
2605.250	Repealed
2605.260	Amendment
2605.270	Amendment
2605.280	Amendment
2605.290	Amendment
2605.310	Amendment
2605.340	Amendment
2605.360	Amendment
2605.380	Amendment
2605.390	Amendment
2605.400	Amendment
2605.410	Amendment
2605.420	Amendment
2605.430	New Section

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF ADOPTED AMENDMENTS

- 4) Statutory Authority: Implementing Section 5-10(a)(i) and Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i) and Art. 10].
- 5) Effective Date of Rules: March 19, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 19290; November 2, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Grammatical and stylistic changes were made.
- 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: The Department is amending the rules to increase efficiency of administrative hearings, improve use of scarce resources by expediting the discovery of grant funds and suspension and revocation of tax credits, remove unnecessary rules, and make various technical changes.
- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Jolene Clarke  
Rules Administrator  
Illinois Department of Commerce and Economic Opportunity  
500 East Monroe  
Springfield IL 62701

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DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

217/557-1820

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

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER III: DEPARTMENT OF COMMERCE AND  
ECONOMIC OPPORTUNITY~~COMMUNITY AFFAIRS~~PART 2605  
ADMINISTRATIVE HEARING RULES

Section	
2605.10	Authority
2605.20	Applicability
2605.40	Definitions
2605.50	Modifications
2605.60	What May Be Reviewed in an Administrative Hearing
2605.70	What May Not Be Reviewed in an Administrative Hearing
2605.80	Procedure for Initiating an Administrative Hearing
2605.90	Department Hours
2605.100	Computing Time Limits
2605.110	Form of Documents
2605.120	Service
2605.130	<u>Amendment</u> , Voluntary Dismissal or Withdrawal of a Petition for Hearing or Notice of Charges
2605.140	Failure to Properly Initiate an Administrative Hearing
2605.150	Waiver of Issues
2605.160	Sanctions
2605.170	Notice of Hearing
2605.180	Requirement of an Answer
2605.190	Consolidation and Severance of Parties and Cases
2605.200	Hearing Officer
2605.210	Hearing Officer Duties
2605.220	Recusal of Hearing Officer
2605.230	Ex Parte Communication
2605.240	Representation and Appearance
2605.250	Intervenors ( <u>Repealed</u> )
2605.260	Motions
2605.270	Discovery
2605.280	<u>Case Management and Prehearing Conferences</u> <del>Conference</del>
2605.290	Hearings
2605.300	Postponement or Continuance of Hearing
2605.310	Failure to Appear

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF ADOPTED AMENDMENTS

2605.320	Burden of Proof
2605.330	Standard of Proof
2605.340	Evidence
2605.350	Business Records
2605.360	<u>Witness Testimony Examination of Witnesses by Hearing Officer</u>
2605.370	Adverse Witness
2605.380	<u>Record Transcript</u> of Hearing
2605.390	Administrative Record
2605.400	Proposal for Decision
2605.410	Final Decision
2605.420	Administrative Review
<u>2605.430</u>	<u>Severability</u>

AUTHORITY: Implementing Section 5-10(a)(i) and Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i) and Art. 10].

SOURCE: Adopted at 24 Ill. Reg. 8853, effective June 13, 2000; amended at 43 Ill. Reg. 4056, effective March 19, 2019.

**Section 2605.20 Applicability**

- a) This Part shall apply to all Administrative Hearings conducted by the Illinois Department of Commerce and Economic Opportunity Community Affairs that are not specifically provided for under any other Section of the Civil Illinois Administrative Code of Illinois or other Program Rules.
- b) In the event of any conflict between the provisions of this Part and any rules promulgated under the authority of the Grant Accountability and Transparency Act (GATA) [30 ILCS 708], the GATA rules will apply. This Part shall apply to any matters pending in the Department's Administrative Hearing proceedings on June 1, 2000 that are not specifically governed by other rules of the Department.
- c) Nothing in this Part shall limit the ability of the Department to enter into an intergovernmental agreement with another State agency providing for the services of a Hearing Officer.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.40 Definitions**

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF ADOPTED AMENDMENTS

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Administrative Hearing" or "Hearing" means the adjudicatory proceeding used to resolve a contested case ~~(also referred to as a "Hearing")~~.

"Agency" shall have the meaning ascribed to it in Section 1-20 of the IAPA.

"Agency Head" shall have the meaning ascribed to it in Section 1-25 of the IAPA.

"Business Day" means all days except Saturday and Sunday, and all weekdays that are not national and/or State legal holidays.

"Complainant" means the party who initiates the Administrative Hearing.

"Contested Case" shall have the meaning ascribed to it in Section 1-30 of the IAPA.

"Department" means the Illinois Department of Commerce and Economic Opportunity~~Community Affairs~~.

"Development Assistance Agreement" shall have the meaning ascribed to it in Section 715-5 of the Corporate Accountability for Tax Expenditures Act [20 ILCS 715].

"Director" means the Director of the Department or duly appointed Acting Director, or in the Director's or Acting Director's~~his~~ absence from the State, or in any event of the Director's or Acting Director's~~his~~ incapacity to act, the~~his~~ next immediate subordinate officer within the Department.

"Hearing Number" means the case number assigned to the Petition for Hearing or the Notice of Charges by the Department for the Administrative Hearing proceedings.

"Hearing Officer" means the Administrative Law Judge as defined in Section 1-15 of the IAPA, and is the person appointed or retained by the Department to preside over the Administrative Hearing proceedings.

~~"He/His" includes either male or female gender.~~

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF ADOPTED AMENDMENTS

"Municipality" shall have the meaning ascribed to it in Section 1-45 of the IAPA.

"Notice of Charges" means a complaint filed by the Department initiating an Administrative Hearing proceeding against a Recipient under this Part.

"Order" shall have the meaning ascribed to it in Section 1-50 of the IAPA.

"Party" shall have the meaning ascribed to it in Section 1-55 of the IAPA.

"Person" shall have the meaning ascribed to it in Section 1-60 of the IAPA.

"Petition for Hearing" means a request for an Administrative Hearing.

"Program Rule" means any of the rules adopted by the Department ~~of Commerce and Community Affairs~~ and codified within the Illinois Administrative Code or any programmatic requirement established by a federal agency that is a source of funding for the program.

"Proof of Service" means evidence submitted specifying the date, method, and person who served a document on another party. All Proofs of Service must be signed by the server.

"Proposal for Decision" means the report issued by the Hearing Officer pursuant to Section 2605.400.

"Recipient" means anyone that has received direct financial assistance from the Department pursuant to a Statute or Program Rule or who is a party to a Development Assistance Agreement with the Department.

"Respondent" means any party who answers/responds to a Notice of Charges, Petition for Hearing, or Motion.

"State Agency" means any State office, officer, division, or part thereof, and any other office, nonelective officer, department, division, bureau, board, or commission in the executive branch of State government, under the authority of the Governor of Illinois.

"Statute" means a formal written enactment of a legislative body, whether federal

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF ADOPTED AMENDMENTS

or State.

"Statutory Authority" means the authority given to the Department by a Statute either directly or as delegated by agreement with another unit of government.

~~"Subrecipient" means anyone that received financial assistance from a Recipient.~~

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.50 Modifications**

~~a) The Hearing Officer may modify this Part upon the written stipulation of the parties. under the following circumstances:~~

- ~~1) The parties agree by written stipulation;~~
  - ~~2) Upon motion by a party who cannot obtain agreement from other parties;  
or~~
  - ~~3) Upon the Hearing Officer's own motion, where he finds in a particular case, that compliance with the rule in that particular case, is unreasonable or unnecessarily burdensome.~~
- ~~b) Where a motion for modification is brought, the movant must show that compliance with the rule from which the modification or waiver is requested would, in that particular case, be unreasonable or unnecessarily burdensome.~~
- ~~c) When the Hearing Officer rules on a motion for modification he shall set forth the reasons for his decision and he shall notify the parties within a reasonable time thereafter.~~

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.60 What May Be Reviewed in an Administrative Hearing**

Subject to Section 2605.70, any finding ~~and/~~ or decision of the Department may be reviewed in an Administrative Hearing when~~where~~ a Statute ~~and/~~ or Program Rule provides for it.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

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**Section 2605.70 What May Not Be Reviewed in an Administrative Hearing**

The following may not be reviewed in an Administrative Hearing, unless otherwise permitted by a Statute ~~and~~/or Program Rule:

- a) Rulemaking as set forth in Sections 5-35, 5-40, 5-45, and 5-50 of the IAPA;
- b) Instances in which a party has waived ~~its~~his right to an Administrative Hearing;
- c) Issues involving unfair labor practices or discrimination in employment;
- d) The Department's decision to deny an application for financial assistance, or to fund at a lower level than requested; or
- e) A declaratory ruling as provided for in Section 5-150 of the IAPA [5 ILCS 100/~~5-150~~].

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.80 Procedure for Initiating an Administrative Hearing**

- a) An Administrative Hearing is initiated by an individual or entity with standing to seek such an Administrative Hearing~~a party~~ serving a Petition for Hearing on the Department, or by the Department serving a Notice of Charges on a party. In either case, the service must be made within the required period of time ~~as is~~ specifically set forth by a Statute ~~and~~/or Program Rule.
- b) The Petition for Hearing and the Notice of Charges must be in clear and legible writing and signed by the person~~party~~ initiating the Administrative Hearing.
- c) The Petition for Hearing and the Notice of Charges must contain the following information:
  - 1) The name and contact information of the parties involved;
  - 2) The subject matter of the Administrative Hearing;
  - 3) The date;

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- 4) A list of the Department findings ~~and~~/or decisions that are being challenged, ~~and~~ the specific reasons why the Petitioner asserts that the Department's findings ~~and~~/or decisions are incorrect, and the specific relief sought (in the case of a Petition for Hearing); and
  - 5) A list of the Department's charges against the party (in the case of a Notice of Charges).
- d) The Petition for Hearing must be personally delivered, or mailed via certified mail, return receipt requested, with Proof of Service attached, to:
- Office of the General Counsel  
Illinois Department of Commerce and Economic Opportunity~~Community~~  
Affairs  
100 West Randolph Street, Suite 3-400~~620 East Adams Street~~  
Chicago~~Springfield~~, Illinois 60601~~62704~~.
- e) The Notice of Charges must be personally delivered, or mailed via certified mail, return receipt requested, with Proof of Service attached, to the party's last known address or to the party's registered agent for service of process at the address registered with the Illinois Secretary of State.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.100 Computing Time Limits**

- a) Computation of any period of time prescribed by this Part shall begin with the first business day following the day on which the act, event, or development initiating ~~that~~~~sueh~~ period of time occurs, and shall run until the end of the last day or the next following business day, if the last day is a Saturday, Sunday, or legal holiday. ~~When~~~~Where~~ the period of time is 10~~ten~~ days or less, Saturdays, Sundays, and legal holidays shall be excluded in the computation of time.
- b) Notice requirements shall be construed to mean notice received. However, proof that notice was dispatched by means reasonably calculated to be received by the prescribed date shall be prima facie proof that notice was timely filed. Petitions, evidence, motions, notices, and all other correspondence sent by U.S. mail will be considered as filed with the Department on the date postmarked. When the parties

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have agreed in writing to notice by electronic mail or through an electronic filing system, notice will be considered having been received on the date of transmission of the filing or other communication.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.110 Form of Documents**

- a) All documents submitted pursuant to an Administrative Hearing shall be typewritten, on 8½ by 11 inch white paper. The first page of each document shall set forth the names of the parties and the Hearing Number assigned to the case by the Department. A Petition for Hearing that is filed before a Hearing Number is assigned shall contain a space for entry of the assigned Hearing Number.
- b) All documents submitted to the Department that require verification shall be signed by the party filing them. All other documents submitted by the party shall be signed by the party or ~~its~~ representative. ~~That Such~~ signature constitutes a representation by the party or ~~its~~ representative that the party or representative has read the documents and that, to the best of the party's or representative's knowledge, information, and belief, the statements made in the documents are true, and are not made for purposes of delay or harassment.
- c) All documents submitted to the Department after the Petition for Hearing shall be submitted in duplicate, together with a Proof of Service, unless submitted electronically or other arrangements are agreed to ~~among between~~ the parties.
- d) Any party submitting or filing a document in the administrative proceedings must also simultaneously send a copy to the opposing party and the Hearing Officer at their designated addresses.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.120 Service**

- a) Service of all documents after a Petition for Hearing or Notice of Charges has been initiated shall be made by personal delivery upon all parties, or U.S. United States mail, properly addressed, with postage prepaid, unless otherwise required in this Part. Proof of Service must be attached to the original of any document served. The parties may agree to service by facsimile or electronic mail. To the

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extent the parties agree to service by electronic mail, a party has the option of designating up to two secondary electronic mail addresses at which that party consents to accept service. If any secondary electronic mail address is designated, the Department must serve the documents on both the designated and all secondary addresses., however, such Proof of Service shall contain a confirmation of receipt attached to the document faxed.

- b) Service on the Department is made by serving the Office of the General Counsel, at the ~~Chicago~~Springfield office address, unless otherwise designated by the Department.
- c) Service on a party shall be at its last known address, unless otherwise designated by the party.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.130 Amendment, Voluntary Dismissal or ~~Withdrawal~~Withdrawal of a Petition for Hearing or Notice of Charges**

- a) A Notice of Charges may be amended at any time. An amended Notice of Charges may be filed in the same manner as a Notice of Charges, or it may be presented to the Hearing Officer during the course of a Hearing. A continuance shall be granted whenever the amendment materially alters the Notice of Charges, and when the Respondent demonstrates that additional time is necessary to properly prepare an answer or otherwise prepare the Respondent's case.
- b) Prior to ~~Hearing~~hearing, an unopposed motion to voluntarily dismiss or withdraw a Petition for Hearing or Notice of Charges shall be granted, and the Hearing Officer shall issue an order dismissing the Petition for Hearing or Notice of Charges, and its underlying cause with or without prejudice. However, the Hearing Officer, within the Hearing Officer's~~his~~ discretion, may hear and decide a motion that has been filed prior to a motion to voluntarily dismiss or withdraw when that prior filed motion could result in a final disposition of the cause. After a ~~Hearing~~hearing begins or when~~where~~ a motion to voluntarily dismiss or withdraw is challenged, the Hearing Officer shall exercise ~~his~~ discretion in allowing the motion when the voluntary dismissal or withdrawal would serve the interests of justice.

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(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.140 Failure to Properly Initiate an Administrative Hearing**

The Department may ~~move to dismiss~~~~reject~~ any Petition for Hearing that does not comply with this Part. The ~~Hearing Officer~~~~Department~~ shall state the basis upon which any Petition for Hearing is rejected and shall grant the party 28 days to amend the Petition. Upon the second failure to properly initiate an Administrative Hearing ~~and where a Petition contains superficial, procedural or technical defects,~~ the ~~Hearing Officer~~~~Department~~ shall state the basis upon which the Petition for Hearing is rejected and the Petition shall be dismissed ~~with~~~~without~~ prejudice. ~~Thereafter, the Complainant may refile within the remaining statute of limitations. The~~Such dismissal ~~is by the Department shall be treated as~~ a Final Decision pursuant to Section 2605.410 for purposes of appeal.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.150 Waiver of Issues**

Any issues that are not specifically, directly or implicitly addressed in the Petition for Hearing ~~or Notice of Charges~~ will be irrevocably waived in any Administrative Hearing conducted by the Department.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.170 Notice of Hearing**

- a) ~~After~~~~Upon~~ receipt by the Department of a properly submitted Petition for Hearing, or in conjunction with a Notice of Charges, a Notice of Hearing *shall be served, personally or by certified or registered mail, return receipt requested, by the Department upon the parties or their agents appointed to receive service of process, and shall include the following:*
- 1) *A statement of the date, time, place, and nature of the Administrative Hearing;*
  - 2) *A statement of the legal authority and jurisdiction under which the Administrative Hearing is to be held;*
  - 3) *A reference to the particular Sections of the substantive and procedural*

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*Statute and Program Rules involved;*

- 4) *A short and plain statement of the matters asserted, the consequences of a failure to respond, and the assigned Hearing Number; and*
  - 5) *The names and mailing addresses of the Hearing Officer, all parties involved, and all other persons to whom the Department gives Notice of Hearing, unless otherwise confidential by law. [5 ILCS 100/10-25]*
- b) Any contention that an improper Notice of Hearing was given will be deemed waived unless it is raised by a party prior to argument on any other motion, or, if no other motions are presented, prior to the commencement of opening statements.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.180 Requirement of an Answer**

- a) In all contested cases initiated by ~~either a Petition for Hearing or~~ a Notice of Charges, the Respondent shall file an ~~answer~~Answer within 28 days after the date on which the ~~Petition for Hearing or~~ Notice of Charges was served. The ~~answer~~Answer shall be in writing, signed by the Respondent and shall contain a specific response to each allegation. The ~~answer~~Answer shall either admit or deny the allegation, or shall state that the Respondent has insufficient information to either admit or deny the allegation.
- b) Any ~~answer~~Answer that states that the Respondent has insufficient information to admit or deny the allegation shall be accompanied by an affidavit of the Respondent attesting to the truth of this assertion.
- c) On motion by any party, the Hearing Officer will issue a notice to plead or be held in default to the Respondent who has failed to submit an answer that conforms to this Section. If, within 15 days after issuance of ~~the~~such notice, the Respondent does not answer or otherwise file a responsive pleading, ~~the~~Respondent will be held in default and a default ~~Order~~order may be entered.
- d) In cases initiated by a Petition for Hearing, the Hearing Officer may order the Department to submit an answer stating the Department's position on any facts or issues raised in the Petition for Hearing.

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(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.200 Hearing Officer**

In any Administrative Hearing, the Department Director or Director's designee shall appoint ~~and~~ or retain an impartial or independent person as a Hearing Officer to conduct the Administrative Hearing. The Hearing Officer shall meet the following standards and qualifications:

- a) ~~be licensed to practice law in the State of Illinois~~be of high integrity, good personal repute, and impartial;
- b) ~~be impartial. It shall not be a bar to acting as Hearing Officer that the attorney is also an employee of another State agency or a Department employee, so long as the Department employee has not had any direct involvement with the case. Mere familiarity with the facts shall not disqualify an otherwise qualified person from acting as the Hearing Officer~~a member in good standing of the Bar of Illinois; and
- c) be familiar with the rules of evidence applied in ~~civil cases in~~ the circuit courts of Illinois and with the IAPA and rules promulgated under the IAPA;<sup>5</sup>
- d) ~~The Department is not prohibited from selecting a Department employee to act as the hearing officer provided that that employee meets the above qualifications and has not had any direct involvement with the case. Mere familiarity with the facts shall not disqualify an otherwise qualified person from action as the Hearing Officer.~~

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.210 Hearing Officer Duties**

- a) The Hearing Officer shall:
  - 1) Conduct a fair and impartial Administrative Hearing; and
  - 2) Take all necessary action to avoid delay, maintain order, and insure development of a clear and complete record.

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- b) The Hearing Officer shall have all powers necessary to conduct the Administrative Hearing as provided in this Part, including but not limited to the power to:
- 1) Administer oaths and affirmations;
  - 2) Regulate the course of the Administrative Hearing; set the time and place for continued ~~Hearings~~hearings; fix the time for submitting documents; provide for the taking of testimony by deposition, if necessary and agreed to by the parties; and generally conduct the proceedings according to generally recognized principles of administrative law and this Part;
  - 3) Dispose of procedural requests or similar matters;
  - 4) Examine witnesses and direct witnesses to testify; limit the number of times any witness may testify; limit repetitious or cumulative testimony; and set reasonable limits on the amount of time each witness may testify;
  - 5) Rule upon offers of proof; receive relevant evidence; and determine what evidence is admissible;
  - 6) Direct parties to appear and confer for the settlement or simplification of issues and to otherwise conduct prehearing conferences;
  - 7) Make rulings on motions and objections;
  - 8) Consider all relevant facts and circumstances;
  - 9) Enter any order that further carries out the purpose of this Part;
  - 10) Compile a record of the proceedings in compliance with IAPA Section 10-35; and
  - 11) Submit a Proposal for Decision, containing Findings of Fact, and Conclusions of Law, and a proposed Final Decision of the Director, to the parties at the conclusion of the Administrative Hearing; ~~and~~
  - 12) ~~Render a Final Decision where the Director delegates that authority at the time of the Hearing Officer's appointment and/or retention.~~

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(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.220 Recusal of Hearing Officer**

- a) Any party may file a timely and sufficient motion, supported by affidavit, requesting that the Hearing Officer recuse himself or herself from hearing the case. The affidavit shall set forth allegations of personal bias or prejudice of the Hearing Officer. If a new Hearing Officer is necessary ~~recuses himself~~, the Director or Director's designee ~~Department~~ shall appoint and/or retain another Hearing Officer.
- b) *An adverse ruling in and of itself shall not constitute a bias or conflict of interest.* [5 ILCS 100/10-30]
- c) The Hearing Officer may, at any time, voluntarily disqualify himself or herself upon written notice to the Department.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.230 Ex Parte Communication**

- a) Once appointed ~~and~~ or retained, the Hearing Officer *shall not communicate directly or indirectly with any party or any person* interested in the outcome of the proceeding, with respect to the merits of any case not concluded, *except upon notice and opportunity for all parties to participate.* [5 ILCS 100/10-60]
- b) The Hearing Officer may impose and enforce sanctions, including those sanctions set forth in Section 2605.160, against a party who violates this Section.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.240 Representation and Appearance**

- a) Only attorneys licensed to practice law in Illinois may represent any other individuals or entities in an Administrative Hearing proceeding before the Department. Any party may be represented by an attorney, provided that the attorney is licensed to practice law in Illinois or by an attorney who is permitted to practice law in Illinois under Article VII of the Illinois Supreme Court Rules

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~~(Effective January 1, 1967)~~. Attorneys who appear in a representative capacity must file a written Notice of Appearance setting forth the following:

- 1) The name, address, telephone number, and Attorney Registration and Disciplinary Commission (ARDC) number of the attorney upon whom service of papers may be made;
  - 2) The name and address of the party represented; and
  - 3) An affirmative statement indicating that the attorney is licensed to practice law in Illinois.
- b) A natural person, who is a party, may appear and be heard on that person's own behalf. A party may use an interpreter if necessary.
- c) A corporation or association may be represented by a corporate officer provided that officer is qualified to practice law in Illinois, as set forth in subsection (a), and 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 the officer is authorized to exercise.
- d) A partnership may be represented by a general partner provided that general partner is qualified to practice law in Illinois, as set forth in subsection (a), upon presentation to the Department of written authorization from all the partners authorizing the general partner to act in a representative capacity.
- e) ~~Only attorneys licensed to practice law in Illinois, as set forth in subsection (a), shall represent any other individuals or entities in an Administrative Hearing proceeding before the Department.~~
- ef) All attorneys appearing in Administrative Hearing proceedings before the Hearing Officer shall conform their conduct to the Illinois Rules of Professional Conduct (Article VIII of the Illinois Supreme Court Rules). In the event that an attorney's behavior substantially impairs the administration of the Administrative Hearing, the Hearing Officer may take the following actions in a progressive manner:
- 1) Limitation of evidence;
  - 2) Substitution of written argument for oral argument;

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- ~~32~~) Exclusion of the attorney from the proceeding;
- ~~43~~) Suspension or revocation of the attorney's right to appear before the Hearing Officer in that contested case.
- ~~f~~g) If the Hearing Officer takes any of the ~~above~~ actions listed in subsection (e), it shall be done as a matter of record, and the Hearing Officer shall state for the record the specific reasons for the action.
- ~~g~~h) Non-attorneys appearing in proceedings before the Department shall be courteous and dignified, and shall maintain the decorum of the tribunal.
- ~~h~~i) An attorney may withdraw anhis appearance ~~and~~/or representation only upon motion and appropriate ruling by the Hearing Officer. However, substitution of attorneys is permitted without motion, provided notice is given to all parties and to the Hearing Officer, as long as the substitution will not delay the proceedings, and a statement to that effect is contained in the notice.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.250 Intervenorors (Repealed)**

- a) ~~Prior to the hearing of evidence, a person may submit a Petition for Intervention. The Hearing Officer may grant the person leave to intervene if the person demonstrates one of the following:~~
  - ~~1) The person can show an interest in the proceeding that may not be adequately represented by the parties to the proceeding; or~~
  - ~~2) The person may be affected by the Final Decision; or~~
  - ~~3) The person is another agency of the State of Illinois that has an interest (i.e., statutory right or duty) that may be affected by the matter that is before the Department.~~
- b) ~~An intervenor shall have all of the rights of an original party, except that the Hearing Officer may, in his order allowing intervention, provide that the intervenor shall be bound by orders previously entered, or by evidence previously~~

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~~received, that the intervenor shall not raise issues that might more properly have been raised at an earlier stage of the proceeding, unless the intervenor can show good cause for delay in intervening or as justice requires.~~

- e) ~~The decision of the Hearing Officer granting or denying the Petition for Intervention shall be considered a Final Decision pursuant to Section 2605.410 for purposes of appeal.~~

(Source: Repealed at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.260 Motions**

- a) Motions, unless made during a ~~Hearing~~hearing, shall be in writing, shall specify the relief and/or order sought, and shall be served on all parties and filed with the Department. Motions are limited to the following:
- 1) To request dismissal of a Petition for Hearing or a Notice of Charges for failure to comply with Section 2605.80 or failure to state a claim upon which relief can be granted.
  - 2) To request sanctions in accordance with Section 2605.240 or 2605.270.
  - 3) To request dismissal of a Petition for Hearing when the Petitioner's case has been concluded without sufficient evidence having been presented to form the basis for a recommendation that the Department reverse its findings, determinations, or conclusions.
  - 4) To request dismissal of a Notice of Charges when the Department's case has been concluded without sufficient evidence having been presented to form a basis for the relief requested by the Department.
  - 5) To request a continuance, or extension of time to comply with any provision of this Part.
  - 6) To request an order granting a rehearing or additional Hearings.
  - 7) To request an order that the Hearing Officer reconsider the Proposal for Decision.

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- 8) To request that the Director or Hearing Officer deem a failure to file an answer conforming to Section 2605.180 to be an admission of the truth of the allegations contained in the Petition for Hearing or Notice of Charges.
  - 9) To request recusal of the Hearing Officer in accordance with Section 2605.220.
  - 10) To request that the Hearing Officer issue an order requiring a party to appear at any case management Hearing, prehearing conference, or formal Hearing, or to be held in default.
  - 11) To request that an order be vacated or modified.
  - 12) To request a case management or prehearing conference.
  - 13) To request consolidation or severance of cases in accordance with Section 2605.190.
  - 14) To request summary judgment if the pleadings and any evidence on file, together with any supporting affidavits, shows that there is no genuine issue of any material fact and that the moving party is entitled to a judgment as a matter of law.
  - 15) To request that certain evidence or witnesses be excluded from a Hearing.
  - 16) To request that certain evidence be stricken from the record.
- b) When any motion is filed, the opposing party has 28 days, or such other period as the Hearing Officer may prescribe, to file a written response setting forth the arguments, authorities relied upon, and affidavits or other supporting evidence. The moving party shall have 14 days, or such other period as the Hearing Officer may prescribe, to file a written reply. When any oral motion is presented during a ~~Hearing~~hearing, the ~~opposing party~~respondent may respond at that Hearinginstantly or ~~he may~~request leave to file a written response within the same time periods as set forth in this ~~Section~~section. If no response is filed ~~or~~orally presented, the ~~opposing~~responding party's right to object will be deemed waived. Any dispositive motion that disposes of all claims or all parties in the action that is granted shall be part of the Administrative Record and shall be treated as a Final Decision pursuant to Section 2605.410 for purposes of appeal.

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- c) The Hearing Officer may allow oral argument, if it is deemed necessary for a fuller understanding of the issues presented, and is authorized to question either party ~~if deemed necessary for a fuller understanding of the issues presented~~. ~~When~~Where facts are alleged, in support of a motion that are not a part of the record in the case, an affidavit shall be attached to the motion setting forth those facts. A written motion shall be disposed of by written order and notice to all parties.
- d) The Hearing Officer shall rule upon all motions properly presented ~~before him~~ within a reasonable time. All motions and corresponding orders shall be part of the Administrative Record.
- e) Unless otherwise ordered, the filing of a motion or response shall not stay the proceeding or extend the time for the performance of any act.
- f) Before granting any dispositive motion, the Hearing Officer may first afford the party an opportunity to cure defects in pleading or proof, and the ruling shall be made part of the Administrative Record in accordance with Section 10-35 of the IAPA.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.270 Discovery**

- a) Discovery shall only commence after a preliminary Hearing~~Petition for Hearing or Notice of Charges has been initiated/filed, docketed and assigned a Hearing Number by the Department~~. Discovery shall not be the subject of motions presented to the Hearing Officer, except when a motion is made alleging failure to comply with this Section and requesting relief in the form of limitation of evidence, dismissal of the case, or a recommendation to the Director based on the pleadings without a Hearing. The Hearing Officer, upon finding that a party has not complied with this Section, may issue an order providing for the foregoing remedies.
- b) Upon written request served on the opposing party, a party is entitled to~~The following discovery procedures shall be used upon the written request served on the opposing party:~~

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- 1) The name and business address of any witness who may be called to testify at the Administrative Hearing and a description of the expected subject matter of the potential witness' testimony~~Interrogatories;~~
  - 2) Copies of any document that may be offered as evidence at the Administrative Hearing~~Production of documents or things; and~~
  - 3) A description of any other evidence that may be offered at the Administrative Hearing~~Depositions; and~~
  - 4) ~~Requests to Admit.~~
- c) A Recipient, at any time after a preliminary Hearing and upon written request, will be required to produce documents, books, records or other evidence that relates to the financial assistance provided by the Department, including any records required to be maintained or produced pursuant to an agreement with the Department.
- d) The items set forth in subsections (b) and (c) shall be provided within 28 days after service of a request, unless a longer or shorter period is agreed upon by the parties or ordered by the Hearing Officer.
- e) The Hearing Officer may restrict ~~such~~ discovery when~~where~~ necessary to prevent undue delay or harassment.
- d) ~~Upon written request served on the opposing party, any party shall be entitled to, at a minimum:~~
- 1) ~~The name and address of all witnesses who may be called to testify at the Administrative Hearing;~~
  - 2) ~~Copies of all documents that may be offered as evidence; and~~
  - 3) ~~A description of any other evidence that may be offered.~~
- e) ~~The information described in subsection (d) shall be provided within 28 days after receipt of the discovery request, unless a longer or shorter period is agreed upon by the parties or granted by the Hearing Officer.~~

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- f) ~~When~~~~Where~~ a party obtains or is in possession of exculpatory evidence, that party must turn over ~~that~~~~such~~ evidence to the opposing party within 28 days following the preliminary Hearing or, if discovered after the preliminary Hearing, within 15 days after its discovery and prior to a formal Hearing. Exculpatory evidence is any evidence that tends to support the party's position or to call into question the credibility of a witness~~immediately.~~
- g) A party shall respond to any written discovery requests that were properly served ~~on him. The responding party is required to answer the discovery request within 28 days after receipt, unless a longer or shorter period is agreed upon by the parties or granted by the Hearing Officer. If a party fails to answer a Request to Admit within 28 days, the Request to Admit shall be deemed admitted against that party.~~ ~~h)~~ Nothing in this Section shall prevent the parties in a contested case from agreeing to a mutual exchange of information that is more extensive than what is provided for in this Section. ~~When~~~~Where~~ the parties agree to the use of an evidence deposition, ~~that~~~~such~~ agreement shall be in writing and shall operate as a waiver of any objection not made during the deposition, except for an objection that the testimony of the witness is not relevant to the case.
- ~~h)~~ ~~The parties have~~~~This provision imposes~~ a continuing obligation ~~upon the parties~~ to tender new information as it becomes available, as well as a continuing obligation to supplement any disclosures or responses to discovery requests to include information acquired after original submission.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.280 Case Management and Prehearing Conferences~~Conference~~**

- a) Upon motion by the Hearing Officer or any party, the Hearing Officer may direct the parties to attend a case management conference or prehearing conference~~Prehearing Conference~~ at a mutually convenient time and place prior to the Administrative Hearing date for the purpose of:
- 1) Simplifying the issues;
  - 2) Limiting the issues;
  - 3) Amending the Petition for Hearing or Notice of Charges, if necessary;

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- 4) Stipulating to facts and/or admissions;
  - 5) Limiting the number of witnesses or evidence;
  - 6) Mutually exchanging prepared testimony and exhibits; and
  - 7) Any other matters that aid in the timely resolution or simplification of the Administrative Hearing.
- b) Any agreements, understandings, or conclusions made at a case management conference or prehearing conference~~Prehearing Conference~~ shall be in the form of a prehearing order~~Prehearing Order~~, signed by the Hearing Officer and all parties or representatives involved in the Administrative Hearing, and shall become a part of the Administrative Record.
- c) Unless otherwise precluded by law, any case may be disposed of by stipulation, agreed settlement, consent order, or default. Any settlement must be signed by ~~the Hearing Officer and~~ all parties involved. The settlement agreement shall be memorialized by ~~a report and the Hearing Officer shall enter~~ an Order dismissing the case with prejudice. To the extent a settlement agreement requires approval by a federal agency or the Illinois Attorney General, as determined by the Department, the Hearing Officer may enter an Order dismissing the case with prejudice conditioned on receipt of all necessary external approvals.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.290 Hearings**

- a) All Hearings~~hearings~~ shall be conducted by the Department at one of its locations as determined by the Department, unless otherwise agreed to by the parties and the Hearing Officer. The parties may stipulate to conducting case management Hearings, prehearings, or formal Hearings by telephone, video conference, or other means acceptable to the parties and Hearing Officer.~~The Department's locations are as follows:~~

~~Illinois Department of Commerce and Community Affairs  
620 East Adams Street  
Springfield, Illinois 62701~~

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~~Illinois Department of Commerce and Community Affairs  
100 W. Randolph Street, 3rd Floor  
Chicago, Illinois 60601~~

- b) The sequence to be followed for all Administrative Hearings is as follows:
- 1) Preliminary Hearing – The purpose is to set a date on which all parties expect to be prepared and to rule on any preliminary motions that are presented. This may be eliminated by agreement of the parties and/or ordered by the Hearing Officer.
  - 2) Case Management and Prehearing Conferences~~Conference~~ – The purposes of the conferences~~Conference~~ are set out in Section 2605.280.
  - 3) Hearings –
    - A) Preliminary Matters – Motions; attempts to narrow issues or limit evidence.
    - B) Opening Statements – The party bearing the burden of proof proceeds first.
    - C) Case in Chief – Evidence and witnesses are presented by the party bearing the burden of proof. After a witness' testimony is completed, the witness~~he~~ is subject to cross-examination.
    - D) Defense – Evidence and witnesses may be presented by the opposing party.
    - E) Closing Statements – The party bearing the burden of proof proceeds first, then the opposing party, then a final reply by the party bearing the burden of proof. The Hearing Officer may request the parties to submit closing statements in writing.
    - F) Final Decision – Described in Section 2605.410.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.310 Failure to Appear**

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Any party failing to appear at a ~~Hearing~~hearing shall waive its right to present evidence. If the Hearing Officer determines that proper notice was given, ~~the Hearing Officer~~he shall grant affirmative relief to the party appearing or ~~he shall~~enter an order dismissing the Petition for Hearing or Notice of Charges, with prejudice. A party fails to appear if the party does not appear at the time, date, and place designated for the Hearing; a party fails or refuses to proceed with the Hearing; or a party failed to notify the Department of a change of address, and a notice of the Hearing, sent to the party's last known address, was returned as "undeliverable", "unclaimed", "refused", "moved", or "no forwarding address" or any other type of returned mail, via postal or electronic method.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.340 Evidence**

- a) Except as otherwise provided in this Section, *the rules of evidence and privilege applicable to all contested cases will be the rules of evidence that are applied in civil cases in the circuit courts of the State of Illinois.* In addition, the Hearing Officer may receive material, *relevant evidence that would be relied upon by a reasonably prudent person in the conduct of serious affairs* [5 ILCS 100/10-40] that is reasonably reliable and reasonably necessary to a resolution of the issue for which it is offered.
- b) The Hearing Officer shall exclude immaterial, irrelevant, and repetitious evidence.
- c) The Hearing Officer shall use his or her discretion in admitting or denying the admission of evidence.
- d) Hearsay is not admissible except when:where
  - 1) exceptions to the hearsay rule ~~that~~which exist in Illinois are applicable or ~~where~~a statement has circumstantial guarantees of~~or~~ trustworthiness; and
  - 2) if the probative value of the statement outweighs any prejudice resulting from an inability to cross-examine the declarant.
- e) Statements that are Not Hearsay~~not hearsay~~:

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- 1) Prior ~~Statement~~statement by ~~Witness~~witness. The declarant testifies at the Hearing and is subject to cross-examination concerning the statement, and the statement is:
  - A) Inconsistent with his or her testimony that was given under oath subject to the penalty of perjury at a trial, ~~Hearing~~hearing, deposition, or other proceeding; or
  - B) Consistent with his or her testimony and is offered to rebut an express or implied charge against him or her of recent fabrication or improper influence or motive; or
  - C) One of identification of a person made after perceiving him or her.
- 2) Admission by ~~Opposing Party~~opposing party. The statement is offered against a party and is:
  - A) ~~The party's~~His own statement in either his or her individual or a representative capacity; ~~or~~
  - B) A statement of which the party has manifested his or her adoption or belief in its truth; ~~or~~
  - C) A statement by a person authorized by the party to make a statement concerning the subject; ~~or~~
  - D) A statement by the party's agent or servant concerning a matter within the scope of the party's agency or employment, made during the existence of the relationship; or
  - E) A statement by a coconspirator of a party during the course and in furtherance of the conspiracy.
- f) Official notice may be taken of all facts of which judicial notice may be taken and of other facts, of a technical nature, within the specialized knowledge and experience of the Department.
- g) A party may object to evidentiary offers. Objections shall be noted in the record.
- h) The parties may, by stipulation, agree upon any facts involved in the proceeding. The

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facts stipulated must be considered evidence in the proceeding.

- i) The Hearing Officer may direct the parties to protect the disclosure of trade secret or other confidential information protected by Statute prior to its admission. The Hearing Officer may require the information to be revealed or redacted in a specific way.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.360 Witness Testimony Examination of Witnesses by Hearing Officer**

- a) The Hearing Officer may exercise reasonable control over the form of examination and order of witnesses so as to make the examination effective for gathering the facts, avoiding delay, and protecting witnesses from harassment or undue embarrassment. The Hearing Officer may limit the examination of witnesses to prevent cumulative or irrelevant evidence. The Hearing Officer may examine any witness.
- b) A party may object to specific questions asked by the Hearing Officer, but it shall not be objectionable that a question violates a technical rule of evidence. For purposes of this Section, the rule against hearsay is a substantive, rather than a technical, rule of evidence.
- c) Before testifying, a witness shall declare, by oath or affirmation and under penalty of perjury, that he or she will testify truthfully.
- d) In the interests of justice, at the request of a party, or on the Hearing Officer's own motion, the Hearing Officer may order witnesses excluded so that they cannot hear the testimony of other witnesses. The Hearing Officer may direct that all excluded and non-excluded witnesses be kept separate until called and may prevent them from communicating with one another until they have been examined or the Hearing is ended.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.380 Record~~Transcript~~ of Hearing**

A record of the Hearing may be made by audio recording or by a transcription by an~~An~~ official court reporter ~~shall be engaged by the Department to make and transcribe a stenographic record of the hearing.~~ The Department will not provide copies of ~~the~~ transcript to the parties, but the

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parties may obtain copies from the official reporter upon payment of the appropriate costs.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.390 Administrative Record**

- a) A full and complete record shall be kept of all proceedings. The *record shall consist of the following*:
- 1) *All pleadings* (including, but not limited to, the Petition for Hearing or Notice of Charges and any ~~answers~~Answers);
  - 2) Motions, briefs, arguments, affidavits, exhibits, documents, and records;
  - 3) *All evidence received*;
  - 4) All discovery responses;
  - 5) A recording or transcript of the ~~Hearing~~hearing, as well as any transcript of any proceeding applicable for appeal or for administrative review;
  - 6) *A statement of matters officially noticed*;
  - 7) *Offers of proof, objections, and rulings*;
  - 8) *Any proposed findings and exceptions*;
  - 9) *Any ~~order~~order, decision, opinion, or report by the Hearing Officer*;
  - 10) *All staff memoranda or data submitted to the Hearing Officer of the case*;
  - 11) *Any communication prohibited by Section 10-60 of the IAPA or Section 2605.230 of this Part.*
- b) *Oral proceedings or any part thereof shall be recorded stenographically or by other means that will adequately insure the preservation of the testimony or oral proceedings and shall be transcribed at the request of any party. Case management conferences that do not involve oral argument may be memorialized by written order of the Hearing Officer. ~~The parties shall agree to the method of~~*

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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~~recording and shall share such costs equally.~~

- c) *Findings of Fact shall be based exclusively on the evidence and on matters officially noticed.* [5 ILCS 100/10-35]
- d) ~~The record shall not contain the following, unless a party requests that the documents be included in the record.~~
  - 1) ~~Cover Letters;~~
  - 2) ~~Notices of Filing;~~
  - 3) ~~Proofs of Service of Regular Mail;~~
  - 4) ~~Notices of Deposition; or~~
  - 5) ~~Discovery Requests.~~
- e) ~~The Department shall be the official custodian of the Administrative Record of the Administrative Hearing proceedings held before the Department.~~

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.410 Final Decision**

- a) The Final Decision in a contested case shall be in writing and shall become a part of the Administrative Record. *A Final Decision shall include Findings of Fact and Conclusions of Law, separately stated. Findings of Fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with this Part, a party submitted a post-hearing motion for reconsideration*~~proposed Findings of Fact~~, *the Final Decision shall include a ruling upon the motion for reconsideration*~~each proposed finding~~. Parties or their agents appointed to receive service of process shall be notified either personally or by certified or registered mail, return receipt requested, of any decision. Upon request, a copy of the decision shall be delivered or mailed forthwith to each party and to his or her attorney of record.
- b) *All Department orders shall specify whether they are final and subject to the*

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*Administrative Review Law.* [5 ILCS 100/10-50]

- c) The Final Decision shall be issued in writing as soon as practicable after the Hearing is concluded, unless otherwise provided for by Statute and/or Program Rule.
- d) A Final Decision in a matter initiated by a Recipient is a "final recovery order" for the purposes of Section 8 of the Grant Funds Recovery Act.
- e) To the extent permitted by Statute or agreement between the parties, theThe Final Decision may require any party to the proceeding to pay part or all of the costs of the Hearing, including but not limited to: witness fees, court reporter fees, Hearing Officer fees, and the cost of the transcript.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.420 Administrative Review**

a) Final administrative decisions of the Department are subject to review under the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

- ~~b) The Department shall certify the record of its administrative hearing proceedings.~~
- ~~c) In all cases where administrative review is sought in the Circuit Court, the original certification of the Administrative Record will be filed by the Department with the Clerk of the Circuit Court. Additional copies will also be prepared by the Department and forwarded to the Attorney General. The party seeking administrative review shall bear the cost of producing the original and copies of the certified record. The cost of the record may be waived when the Department is satisfied that the party seeking review under the Administrative Review Law cannot afford to pay such costs.~~

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)

**Section 2605.430 Severability**

If any Section, subdivision, sentence, or clause of this Part is held by a court of competent jurisdiction to be invalid, that holding shall not affect the remaining provisions of this Part.

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DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 43 Ill. Reg. 4056, effective March 19, 2019)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Children's Health Insurance Program
- 2) Code Citation: 89 Ill. Adm. Code 125
- 3) Section Number: 125.305                      Adopted Action:  
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rule: March 25, 2019
- 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 materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 7280; April 20, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This amendment implements PA 100-538 by removing abortion services from the service exclusions under the All Kids Health Plan.
- 16) Information and questions regarding this adopted rule shall be directed to:

Christopher Gange  
Acting General Counsel  
Illinois Department of Healthcare and Family Services

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

201 South Grand Avenue East, 3rd Floor  
Springfield IL 62763-0002

HFS.Rules@Illinois.gov

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 125

## CHILDREN'S HEALTH INSURANCE PROGRAM

## SUBPART A: GENERAL PROVISIONS

## Section

- 125.100 General Description
- 125.110 Definitions

## SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

## Section

- 125.200 Eligibility for Children's Health Insurance Program
- 125.205 Eligibility Exclusions and Terminations
- 125.220 Application Process
- 125.225 Presumptive Eligibility for Children
- 125.230 Determination of Financial Eligibility Using Modified Adjusted Gross Income (MAGI)
- 125.240 Eligibility Determination and Enrollment Process
- 125.245 Appeals
- 125.250 Annual Renewals
- 125.260 Adding Children to the Program and Changes in Participation
- 125.265 Adding Eligible Adults to the Program and Changes in Participation (Repealed)

## SUBPART C: ALL KIDS HEALTH PLAN

## Section

- 125.300 Covered Services
- 125.305 Service Exclusions
- 125.310 Copayments
- 125.320 Premium Requirements
- 125.330 Non-payment of Premium
- 125.340 Provider Reimbursement

## SUBPART D: ALL KIDS REBATE

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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## Section

- 125.400 Minimum Coverage Requirements (Repealed)
- 125.420 Coverage Verification Process (Repealed)
- 125.430 Provision of Policyholder's Social Security Number (Repealed)
- 125.440 All Kids Rebate (Repealed)
- 125.445 Rebate Overpayments

**AUTHORITY:** Implementing and authorized by the Children's Health Insurance Program Act [215 ILCS 106] and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

**SOURCE:** Adopted by emergency rulemaking at 22 Ill. Reg. 15706, effective August 12, 1998, for a maximum of 150 days; adopted at 23 Ill. Reg. 543, effective December 24, 1998; emergency amendment at 24 Ill. Reg. 4217, effective March 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11822, effective July 28, 2000; amended at 26 Ill. Reg. 12313, effective July 26, 2002; emergency amendment at 26 Ill. Reg. 15066, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 4723, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10807, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18623, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 7163, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13632, effective September 28, 2004; emergency amendment at 30 Ill. Reg. 535, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10328, effective May 26, 2006; emergency amendment at 36 Ill. Reg. 10298, effective July 1, 2012 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5049, effective April 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 10253, effective June 27, 2013; emergency amendment at 37 Ill. Reg. 15997, effective October 1, 2013, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 1153, effective January 1, 2014, for a maximum of 150 days; emergency amendment to emergency rule at 38 Ill. Reg. 2943, effective January 10, 2014, for a maximum of 150 days; emergency amendment effective January 10, 2014 repealed by emergency rulemaking at 38 Ill. Reg. 8454, effective April 15, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 6006, effective February 26, 2014; emergency amendment at 38 Ill. Reg. 9110, effective April 15, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18451, effective August 19, 2014; amended at 43 Ill. Reg. 4089, effective March 25, 2019.

## SUBPART C: ALL KIDS HEALTH PLAN

**Section 125.305 Service Exclusions**

~~The following health care services will not be covered under the All Kids Health Plan:~~a) Services provided only through a waiver approved under section 1915(c) of the Social Security Act (42

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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USC 1396n(c) will not be covered under the All Kids Health Plan.

b) ~~Abortion services.~~

(Source: Amended at 43 Ill. Reg. 4089, effective March 25, 2019)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
140.3	Amendment
140.6	Amendment
140.413	Amendment
140.462	Amendment
140.490	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rules: March 25, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any materials 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*: 42 Ill. Reg. 7285; April 20, 2018 and 42 Ill. Reg. 19557; November 9, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: At the suggestion of JCAR, capitalization errors are corrected and the reference to guidelines published by the American College of Obstetricians and Gynecologists in 89 Ill. Adm. Code 140.413 is updated. At the suggestion of public commenters, an effective date is included in the change to 89 Ill. Adm. Code 140.3.
- 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 other rulemakings pending on this Part? Yes

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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<u>Sections Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
140.452	Amendment	42 Ill. Reg. 14043; July 20, 2018
140.453	Amendment	42 Ill. Reg. 14043; July 20, 2018
140.455	Amendment	42 Ill. Reg. 14043; July 20, 2018
140.460	Amendment	42 Ill. Reg. 14043; July 20, 2018
140.TABLE N	Amendment	42 Ill. Reg. 14043; July 20, 2018
140.990	Amendment	42 Ill. Reg. 18242; October 12, 2018
140.991	Amendment	42 Ill. Reg. 18242; October 12, 2018
140.993	Amendment	42 Ill. Reg. 18242; October 12, 2018
140.994	Amendment	42 Ill. Reg. 18242; October 12, 2018
140.995	Repealed	42 Ill. Reg. 18242; October 12, 2018
140.996	Repealed	42 Ill. Reg. 18242; October 12, 2018
140.997	Repealed	42 Ill. Reg. 18242; October 12, 2018
140.491	Amendment	42 Ill. Reg. 24574; December 28, 2018

- 15) Summary and Purpose of Rulemaking: These amendments implement PA 100-538 by removing restrictions in administrative rule related to abortion services and PA 100-395 by updating the administrative rule related to mammography screening and related services so that the rule mirrors the requirements of Section 5/5-5 of the Illinois Public Aid Code [305 ILCS 5/5-5]. A separately proposed amendment authorizes Federally Qualified Health Centers (FQHCs) to bill the services of dentists and dental hygienists at encounter rates, and clarifies the difference between medi-car and service car forms of medical transportation.
- 16) Information and questions regarding these adopted rules shall be directed to:

Christopher Gange  
Acting General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3rd Floor  
Springfield IL 62763-0002

HFS.Rules@Illinois.gov

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 140

## MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

## Section

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

## SUBPART B: MEDICAL PROVIDER PARTICIPATION

## Section

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
- 140.20 Submittal of Claims
- 140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Sanctioned Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
- 140.44 Withholding of Payments Due to Fraud or Misrepresentation
- 140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate
- 140.55 Electronic Data Interchange Service
- 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
- 140.72 Drug Manual (Recodified)
- 140.73 Drug Manual Updates (Recodified)
- 140.74 Resolution of Claims Related to Inaccurate or Updated Enrollment Information

## SUBPART C: PROVIDER ASSESSMENTS

- Section
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.86	Supportive Living Facility Funds
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund (Repealed)
140.95	Hospital Services Trust Fund (Repealed)
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)
140.373	Utilization (Repealed)
140.374	Alternatives (Recodified)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

## Section

- 140.400 Payment to Practitioners
- 140.402 Copayments for Noninstitutional Medical Services
- 140.403 Telehealth Services
- 140.405 Non-Institutional Rate Reductions
- 140.410 Physicians' Services
- 140.411 Covered Services By Physicians
- 140.412 Services Not Covered By Physicians
- 140.413 Limitation on Physician Services
- 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
- 140.416 Optometric Services and Materials
- 140.417 Limitations on Optometric Services
- 140.418 Department of Corrections Laboratory
- 140.420 Dental Services
- 140.421 Limitations on Dental Services
- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
- 140.423 Licensed Clinical Psychologist Services
- 140.424 Licensed Clinical Social Worker Services
- 140.425 Podiatry Services
- 140.426 Limitations on Podiatry Services
- 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
- 140.428 Chiropractic Services
- 140.429 Limitations on Chiropractic Services (Repealed)
- 140.430 Independent Clinical Laboratory Services
- 140.431 Services Not Covered by Independent Clinical Laboratories

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

140.432	Limitations on Independent Clinical Laboratory Services
140.433	Payment for Clinical Laboratory Services
140.434	Record Requirements for Independent Clinical Laboratories
140.435	Advanced Practice Nurse Services
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**AUTHORITY:** Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

**SOURCE:** Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984;

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emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987;

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amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3,

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1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30,

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1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332,

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effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002;

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amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill.

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Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended

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at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015; emergency amendment at 39 Ill. Reg. 6903, effective May 1, 2015 through June 30, 2015; emergency amendment at 39 Ill. Reg. 8137, effective May 20, 2015, for a maximum of 150 days; emergency amendment at 39 Ill. Reg. 10427, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 12825, effective September 4, 2015; amended at 39 Ill. Reg. 13380, effective September 25, 2015; amended at 39 Ill. Reg. 14138, effective October 14, 2015; emergency amendment at 40 Ill. Reg. 13677, effective September 16, 2016, for a maximum of 150 days; emergency expired February 12, 2017; amended at 41 Ill. Reg. 999, effective January 19, 2017; amended at 41 Ill. Reg. 3296, effective March 8, 2017; amended at 41 Ill. Reg. 7526, effective June 15, 2017; amended at 41 Ill. Reg. 10950, effective August 9, 2017; amended at 42 Ill. Reg. 4829, effective March 1, 2018; amended at 42 Ill. Reg. 12986, effective June 25, 2018; emergency amendment at 42 Ill. Reg. 13688, effective July 2, 2018, for a maximum of 150 days; emergency amendment to emergency rule at 42 Ill. Reg. 16265, effective August 13, 2018, for the remainder of the 150 days; amended at 42 Ill. Reg. 14383, effective July 23, 2018; amended at 42 Ill. Reg. 20059, effective October 26, 2018; amended at 42 Ill. Reg. 22352, effective November 28, 2018; amended at 43 Ill. Reg. 1014, effective December 31, 2018; amended at 43 Ill. Reg. 2227, effective February 4, 2019; amended at 43 Ill. Reg. 4094, effective March 25, 2019.

## SUBPART A: GENERAL PROVISIONS

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**Section 140.3 Covered Services Under Medical Assistance Programs**

- a) As described in this Section, medical services shall be covered for:
- 1) recipients of financial assistance under the AABD (Aid to the Aged, Blind or Disabled), TANF (Temporary Assistance to Needy Families), or Refugee/Entrant/Repatriate program;
  - 2) recipients of medical assistance only under the AABD program (AABD-MANG);
  - 3) recipients of medical assistance only under the TANF program (TANF-MANG);
  - 4) individuals under age 18 not eligible for TANF (see Section 140.7), pregnant women who would be eligible if the child were born and pregnant women and children under age eight who do not qualify as mandatory categorically needy (see Section 140.9);
  - 5) disabled persons under age 21 who may qualify for Medicaid or in-home care under the Illinois Home and Community-Based Services Waiver for Medically Fragile Technology Dependent Children;
  - 6) individuals 19 years of age or older eligible under the KidCare Parent Coverage Waiver ~~as~~ described at 89 Ill. Adm. Code 120.32, except for services provided only through a waiver approved under section 1915(c) of the Social Security Act (42 USC 1396n(c));
    - A) ~~Services provided only through a waiver approved under section 1915(e) of the Social Security Act; and~~
    - B) ~~Termination of pregnancy;~~
  - 7) beginning January 1, 2014, ACA Adults as described in 89 Ill. Adm. Code 120.10(h). Notwithstanding any rule to the contrary in Title 89, the services that shall be covered are services for which the Department obtains federal approval and receives federal matching funds; and

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- 8) beginning January 1, 2014, Former Foster Care as described in 89 Ill. Adm. Code 120.10(i).
- b) The following medical services shall be covered for recipients under age 21 who are included under subsection (a):
- 1) Inpatient hospital services;
  - 2) Hospital outpatient and clinic services;
  - 3) Hospital emergency room visits. The visit must be for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries that might result in disability or death if there is not immediate treatment;
  - 4) Encounter rate clinic visits;
  - 5) Physician services;
  - 6) Pharmacy services;
  - 7) Home health agency visits;
  - 8) Laboratory and x-ray services;
  - 9) Group care services;
  - 10) Family planning services and supplies;
  - 11) Medical supplies, equipment, prostheses and orthoses, and respiratory equipment and supplies;
  - 12) Transportation to secure medical services;
  - 13) EPSDT services pursuant to Section 140.485;
  - 14) Dental services;
  - 15) Chiropractic services;

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- 16) Podiatric services;
  - 17) Optical services and supplies;
  - 18) Subacute alcoholism and substance abuse services pursuant to Sections 140.390 through 140.396;
  - 19) Hospice services;
  - 20) Nursing care pursuant to Section 140.472;
  - 21) Nursing care for the purpose of transitioning children from a hospital to home placement or other appropriate setting pursuant to 89 Ill. Adm. Code 146, Subpart D;
  - 22) Telehealth services pursuant to Section 140.403;
  - 23) Preventive services;
  - 24) Licensed Clinical Social Worker services; ~~and~~
  - 25) Licensed Clinical Psychologist services; ~~and~~;
  - 26) Effective January 1, 2018, abortion services.
- c) Effective July 1, 2012, the following medical services shall be covered for recipients age 21 or over who are included under subsection (a):
- 1) Inpatient hospital services;
  - 2) Hospital outpatient and clinic services;
  - 3) Hospital emergency room visits. The visit must be for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries that might result in disability or death if there is not immediate treatment;
  - 4) Encounter rate clinic visits;

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- 5) Physician services;
- 6) Pharmacy services;
- 7) Home health agency visits;
- 8) Laboratory and x-ray services;
- 9) Group care services;
- 10) Family planning services and supplies;
- 11) Medical supplies, equipment, prostheses and orthoses, and respiratory equipment and supplies;
- 12) Transportation to secure medical services;
- 13) Subacute alcoholism and substance abuse services pursuant to Sections 140.390 through 140.396;
- 14) Hospice services;
- 15) Dental services, pursuant to Section 140.420;
- 16) Podiatric services, pursuant to Section 140.425 for individuals with a diagnosis of diabetes;
- 17) Optical services and supplies;
- 18) Telehealth services pursuant to Section 140.403;
- 19) Preventive services;
- 20) Licensed Clinical Social Worker services; ~~and~~
- 21) Licensed Clinical Psychologist services; ~~and~~.
- 22) [Effective January 1, 2018, abortion services.](#)

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(Source: Amended at 43 Ill. Reg. 4094, effective March 25, 2019)

**Section 140.6 Medical Services Not Covered**

The following services are not covered under the Department's medical assistance programs:

- a) Services available without charge;
- b) Services prohibited by State or ~~federal~~Federal law;
- c) Experimental procedures;
- d) Research oriented procedures;
- e) Medical examinations required for entrance into educational or vocational programs;
- f) Autopsy examinations;
- g) Artificial insemination;
- ~~h) Abortion, except under the conditions stated in Section 140.413(a)(1);~~
- ~~hi)~~ Medical or surgical procedures performed for cosmetic purposes;
- ~~ij)~~ Medical or surgical transsexual treatment, for dates of service prior to April 1, 2015;
- ~~jk)~~ Diagnostic and/or therapeutic procedures related to primary infertility/sterility;
- ~~kl)~~ Acupuncture;
- ~~lm)~~ Subsequent treatment for venereal disease, when ~~thosesuch~~ services are available through State and/or local health agencies;
- ~~mn)~~ Medical care provided by mail or telephone;
- ~~no)~~ Unkept appointments;

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- ~~op~~) Non-medically necessary items and services provided for the convenience of recipients and/or their families;
- ~~pq~~) Preparation of routine records, forms and reports; and
- ~~qr~~) Visits with persons other than a recipient, such as family members or group care facility staff.

(Source: Amended at 43 Ill. Reg. 4094, effective March 25, 2019)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

**Section 140.413 Limitation on Physician Services**

- a) When provided in accordance with the specified limitations and requirements, the Department shall pay for the following services:
  - 1) Termination of ~~Pregnancy~~pregnancy All abortion service claims must be accompanied by an HFS 2390 Abortion Payment Application. The Department will pay for abortion services when:
    - A) The pregnancy results from rape or incest;
    - B) In the physician's professional judgment, the pregnancy threatens the life of the mother; or
    - C) The service is performed for any other reason.

~~only in those cases in which the physician has certified in writing to the Department that the procedure is necessary to preserve the life of the mother. All claims for reimbursement for abortions or induced miscarriages or premature births must be accompanied by the physician's written certification that the procedure is necessary for preservation of the life of the woman, or that the induced premature birth was to produce a live viable child and was necessary for the health of the mother or her unborn child.~~
  - 2) Sterilization

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- A) Therapeutic sterilization – only when the procedure is either a necessary part of the treatment of an existing illness, or is medically indicated as an accompaniment of an operation on the female genitourinary tract. Mental incapacity does not constitute an illness or injury that would authorize this procedure.
- B) Nontherapeutic sterilization – only for recipients age 21 or older and mentally competent. The physician must obtain the recipient's informed written consent in a language understandable to the recipient before performing the sterilization and must advise the recipient of the right to withdraw consent at any time prior to the operation. The operation shall be performed no sooner than 30 days and no later than 180 days following the date of the recipient's written informed consent, except in cases of premature delivery or emergency abdominal surgery. An individual may consent to be sterilized at the time of premature delivery or emergency abdominal surgery if at least 72 hours have passed since informed consent was given.
- 3) Morbid Obesity. Effective October 1, 2012, surgery for morbid obesity is covered only with prior approval by the Department. The Department shall approve payment for this service only in those cases in which the physician determines that obesity is exogenous in nature, the recipient has had the benefit of other therapy with no success, endocrine disorders have been ruled out, and the body mass index (BMI) is 40 or higher, or 35 to 39.9 with serious medical complications. The medical record must contain the following documentation of medical necessity:
  - A) Documentation of review of systems (history and physical);
  - B) Client height, weight and BMI;
  - C) Listing of co-morbidities;
  - D) Patient participation in a six month consecutive medically supervised weight loss program working in conjunction with a registered dietician and or physician within two years prior to the

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surgery, with at least four documented visits within the consecutive six months;

- E) Current and complete psychiatric evaluation indicating the patient is an appropriate candidate for weight loss surgery; and
  - F) Documentation of nutritional counseling.
- 4) Psychiatric ~~Services~~services
- A) Treatment – when the services are provided by a physician who has been enrolled as an approved provider with the Department.
  - B) Consultation – only when necessary to determine the need for psychiatric care. Services provided subsequent to the initial consultation must comply with the requirements for treatment.
  - C) Group Psychotherapy – payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:
    - i) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases (ICD-9-CM) or, upon implementation, International Classification of Diseases, 10<sup>th</sup> Revision, Clinical Modification (ICD-10-CM), or the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Practitioners Rendering Medical Services; ~~and~~
    - ii) beginning 1/1/10, the entire group psychotherapy service is directly performed by a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program; ~~and~~

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- iii) the group size does not exceed 12 patients, regardless of payment source; ~~and~~
  - iv) the minimum duration of a group session is 45 minutes; ~~and~~
  - v) the group session is documented in the patient's medical record by the rendering physician, including the session's primary focus, level of patient participation, and begin and end times of each session; ~~and~~
  - vi) the group treatment model, methods, and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services; ~~and~~
  - vii) the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and
  - viii) Effective July 1, 2012, group psychotherapy is not covered for recipients who are residents in a facility licensed under the Nursing Home Care Act [210 ILCS 45] or the Specialized Mental Health Rehabilitation Act [210 ILCS 48].
- 5) Home Services. Services provided to a recipient in his or her home – only when the recipient is physically unable to go to the physician's office.
- 6) Services provided to recipients in group care facilities by a physician other than the attending physician – only for emergency services provided when the attending physician of record is not available or when the attending physician has made referral with the recipient's knowledge and permission.
- 7) Services provided to recipients in a group care facility by a physician who derives a direct or indirect profit from total or partial ownership (or from other types of financial investment for profit in the facility) – only when occasioned by an emergency due to acute illness or unavailability of essential treatment facilities in the vicinity for short-term care pending

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transfer, or when there is no comparable facility in the area.

- 8) Maternity ~~Care~~ ~~care~~ Payment shall be made for pre-natal and post-natal care only when the following conditions are met:
- A) the physician, whether based in a hospital, clinic or individual practice, retains hospital delivery privileges, maintains a written referral arrangement with another physician who retains such privileges, or has been included in the Maternal and Child Health Program as a result of having entered into an appropriate Healthy Moms/Healthy Kids Program provider agreement;
  - B) the written referral agreement is kept on file and is available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; and
  - C) maternal services are delivered in a manner consistent with the quality of care guidelines published by the American College of Obstetricians and Gynecologists in [its Guidelines for Women's Health Care \(2014\)](#) and [Guidelines for Perinatal Care \(2017\)](#), ~~available at the current edition of the "Standards for Obstetric-Gynecologic Services" (1989 Edition)~~, 409 12<sup>th</sup> Street, S.W., Washington, D.C. 20024-2188, ~~or at~~ <https://www.acog.org>.
- 9) Physician ~~Services~~ ~~services~~ to ~~Children~~ ~~children~~ under ~~Age~~ ~~age~~ 21
- A) Payment shall be made only when the physician meets one or more of the following conditions. The physician:
    - i) has admitting privileges at a hospital; ~~or~~
    - ii) is certified or is eligible for certification in pediatrics or family practice by the medical specialty board recognized by the American Board of Medical Specialties; ~~or~~
    - iii) is employed by or affiliated with a Federally Qualified Health Center; ~~or~~
    - iv) is a member of the National Health Service Corps; ~~or~~

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- v) has been certified by the Secretary of the Department of Health and Human Services as qualified to provide physician services to a child under 21 years of age; ~~or~~
  - vi) has current, formal consultation and referral arrangements with a pediatrician or family practitioner for the purposes of specialized treatment and admission to a hospital. The written referral agreement is kept on file and is available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; or
  - vii) has entered into a Maternal and Child Health provider agreement or has otherwise been transferred in from the Healthy Moms/Healthy Kids Program;
- B) The physician shall certify to the Department the way in which he or she meets the above criteria; and
- C) Services to children shall be delivered in a manner consistent with the standards of the American Academy of Pediatrics and rules published by the Illinois Department of Public Health (77 Ill. Adm. Code 630, Maternal and Child Health Services; 77 Ill. Adm. Code 665, Child Health Examination Code; 77 Ill. Adm. Code 675, Hearing Screening; 77 Ill. Adm. Code 685, Vision Screening).
- 10) Hysterectomy. ~~Only~~~~—only~~ if the individual has been informed, orally and in writing, that the hysterectomy will render her permanently incapable of reproducing and the individual has signed a written acknowledgment of receipt of the information. The Department will not pay for a hysterectomy that would not have been performed except for the purpose of rendering an individual permanently incapable of reproducing.
- 11) Selected Surgical Procedures. ~~Includessurgical procedures, including:~~
- A) ~~tonsillectomies~~~~Tonsillectomies~~ or ~~adenoidectomies;~~~~Adenoidectomies~~
  - B) ~~hemorrhoidectomies;~~~~Hemorrhoidectomies~~

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- C) ~~cholecystectomies;~~Cholecystectomies
- D) ~~disc surgery/spinal fusion;~~Disc Surgery/Spinal Fusion
- E) ~~joint cartilage surgery/meniscectomies;~~Joint Cartilage Surgery/Meniscectomies
- F) ~~excision~~Excision of ~~varicose veins;~~Varicose Veins
- G) ~~submucous resection/rhinoplasty/repair of nasal system;~~Submucous Resection/Rhinoplasty/Repair of Nasal System
- H) ~~mastectomies~~Mastectomies for ~~non-malignancies; and~~Non-Malignancies
- I) ~~surgical~~Surgical procedures that generally may be performed in an outpatient setting (see Section 140.117), but only if the Department authorizes payment. The Department will in some instances require that a second physician agree that the surgical procedure is medically necessary prior to approving payment for one of these procedures. The Department will require a second opinion when the attending physician has been notified by the Department that he or she will be required to obtain prior approval for payment for the surgeries listed. (See Sections 140.40 through 140.42 for prior approval requirements.) The Department will select physicians for this requirement based on the recommendation of a peer review committee that has reviewed the utilization pattern of the physician.
- 12) Mammography Screening and Related Services. Described in 305 ILCS 5/5-5.screening
- A) ~~Covered only when ordered by a physician for screening by low-dose mammography for the presence of occult breast cancer under the following guidelines:~~
- i) ~~a baseline mammogram for women 35 through 39 years of age; and~~

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- ii) ~~a mammogram once per year for women 40 years of age or older.~~
    - B) ~~As used in this subsection (a)(12), "low-dose mammography" means the x-ray examination of the breast using equipment specifically designated for mammography that will meet appropriate radiological standards.~~
- 13) Pap Tests and Prostate-Specific Antigen Tests. ~~Coverage prostate-specific antigen tests—coverage~~ is provided for the following:
  - A) An annual cervical smear or Pap smear test for women.
  - B) An annual digital rectal examination and a prostate-specific antigen test, upon the recommendation of a physician licensed to practice medicine in all its branches, for:
    - i) asymptomatic men age 50 and over;
    - ii) African-American men age 40 and over; and
    - iii) men age 40 and over with a family history of prostate cancer.
- 14) Coronary Artery By-Pass Grafts. Effective July 1, 2012, coronary artery by-pass grafts are covered only with prior approval by the Department.
- 15) Tobacco Cessation Counseling. Face-to-face tobacco cessation counseling only for pregnant and up to 60-day postpartum women age 21 and over. The tobacco cessation counseling services:
  - A) Must be provided by or under supervision of a physician, or by any other health care professional who is legally authorized to furnish those services under State law, and who is authorized to provide Medicaid covered services other than tobacco cessation services.

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- B) Are limited to a maximum of three quit attempts, with four individual face-to-face counseling sessions per quit attempt, per calendar year.
  - C) Must be properly documented in the patient's medical record and include the total time spent and what was discussed during the counseling session, including cessation techniques, resources available and follow-up. Distinct documentation to support this service is required if reported in conjunction with another evaluation and management service.
  - D) Rendered to participants under age 21 are not subject to the limitations in this subsection (a)(15).
- b) In cases in which a physical examination by a second physician is needed, the Department will notify the recipient and designate a physician to perform the examination. Physicians will be subject to this requirement for six months, after which a request can be submitted to the peer review committee to consider removal of the prior approval requirement.

(Source: Amended at 43 Ill. Reg. 4094, effective March 25, 2019)

**Section 140.462 Covered Services in Clinics**

Payment shall be made to clinics for the following types of services when provided by, or under the direction of, a physician:

- a) Hospital-Based Organized Clinics. Covered services are those described in 89 Ill. Adm. Code 148.
- b) Encounter Rate Clinics
  - 1) With respect to those encounter rate clinics that qualify as Maternal and Child Health providers, as described in Section 140.924, covered services are those described in Section 140.922.
  - 2) With respect to all other encounter rate clinics, covered services are medical services that provide for the continuous health care needs of persons who elect to use this type of service, including dental services that

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will be billed as separate encounters for dates of service on or after January 1, 2011.

- 3) Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
- c) Rural Health Clinics
- Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:
- 1) Physician's Services, including covered services of nurse practitioners, nurse midwives and physician-supervised physician assistants. Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
  - 2) Group Psychotherapy Services – Payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:
    - A) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases 9<sup>th</sup> Revision, Clinical Modification (ICD-9-CM) or, upon implementation, International Classification of Diseases, 10<sup>th</sup> Revision, Clinical Modification (ICD-10-CM), or the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Practitioners Rendering Medical Services;
    - B) beginning February 1, 2013, the entire group of psychotherapy services must be directly performed by one of the following practitioners:
      - i) a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program;

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- ii) an Advanced Practice [Registered](#) Nurse holding a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code 1305.Appendix A;
  - iii) Psychologist;
  - iv) Licensed Clinical Social Worker;
  - v) Licensed Clinical Professional Counselor; or
  - vi) Licensed Marriage and Family Therapist;
- C) the group size does not exceed 12 patients, regardless of payment source;
- D) the minimum duration of the group session is 45 minutes;
- E) the group session is documented in the patient's medical record by the rendering practitioner, including the session's primary focus, level of patient participation, and begin and end times of each session;
- F) the group treatment model, methods and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services;
- G) the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and
- H) group psychotherapy is not covered for recipients who are residents in a facility licensed under the Nursing Home Care Act [210 ILCS 45] or the Specialized Mental Health Rehabilitation Act [210 ILCS 48].
- 3) Other services for which a separate encounter may be billed include dentist and behavioral health services as defined in Section 140.463(a).
- 4) Medically-necessary services and supplies furnished by or under the

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direction of a physician or dentist within the scope of licensed practice that have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:

- A) medical case management;
  - B) laboratory services;
  - C) occupational therapy;
  - D) patient transportation;
  - E) pharmacy services;
  - F) physical therapy;
  - G) podiatric services;
  - H) speech and hearing services;
  - I) x-ray services;
  - J) health education;
  - K) nutrition services;
  - L) optometric services.
- 5) A rural health clinic (RHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service provided.
- 6) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing prior to billing for the services.
- 7) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits

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Improvement and Protection Act (BIPA) precludes fee-for-service billings for any RHC services with the exception of services identified in subsections (c)(8) and (c)(9).

- 8) Effective July 1, 2012 through June 30, 2013, a physician or APRN may submit fee-for-service billings for implantable contraceptive devices administered in an RHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:
  - A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;
  - B) The RHC must be listed as the payee on the claim;
  - C) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
  - D) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.
  
- 9) Effective July 1, 2013, an RHC may submit fee-for-service billings for Long Acting Reversible Contraceptives (LARCs). For dates of service October 1, 2014 and after, an RHC may submit fee-for-service billing for non-surgical transcervical permanent contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:
  - A) To the extent that the LARCs or transcervical permanent contraceptive devices were purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;
  - B) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;

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- C) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.
- 10) Tobacco cessation counseling services may be billed as an encounter if furnished by a provider as defined in Section 140.413(a)(15) within the designated coverage limitations.
- d) Federally Qualified Health Centers  
Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:
- 1) Physician's services, including covered services of nurse midwives, nurse practitioners and physician-supervised physician assistants. Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
  - 2) Group Psychotherapy Services – Payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:
    - A) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases 9<sup>th</sup> Revision, Clinical Modification (ICD-9-CM) or, upon implementation, International Classification of Diseases, 10<sup>th</sup> Revision, Clinical Modification (ICD-10-CM), or the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Practitioners Rendering Medical Services;
    - B) beginning February 1, 2013, the entire group of psychotherapy services must be directly performed by one of the following practitioners:
      - i) a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program;

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- ii) an Advanced Practice Nurse holding a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code 1305.Appendix A;
  - iii) Psychologist;
  - iv) Licensed Clinical Social Worker;
  - v) Licensed Clinical Professional Counselor; or
  - vi) Licensed Marriage and Family Therapist;
- C) the group size does not exceed 12 patients, regardless of payment source;
- D) the minimum duration of the group session is 45 minutes;
- E) the group session is documented in the patient's medical record by the rendering practitioner, including the session's primary focus, level of patient participation, and begin and end times of each session;
- F) the group treatment model, methods and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services;
- G) the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and
- H) group psychotherapy is not covered for recipients who are residents in a facility licensed under the Nursing Home Care Act [210 ILCS 45] or the Specialized Mental Health Rehabilitation Act [210 ILCS 48].
- 3) Other services for which separate encounters may be billed include:

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- A) dental services provided by a dentist or a dental hygienist, as defined and in accordance with the Illinois Dental Practice Act, working under the general supervision of a dentist and employed by a federally qualified health center dentists; and
  - B) behavioral health services as defined in Section 140.463(a).
- 4) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:
- A) medical case management;
  - B) laboratory services;
  - C) occupational therapy;
  - D) patient transportation;
  - E) pharmacy services;
  - F) physical therapy;
  - G) podiatric services;
  - H) optometric services;
  - I) speech and hearing services;
  - J) x-ray services;
  - K) health education;
  - L) nutrition services.
- 5) A federally qualified health center (FQHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the

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Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service.

- 6) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing.
- 7) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any FQHC services provided with the exception of services identified in subsections (d)(8) and (d)(9).
- 8) Effective July 1, 2012 through June 30, 2013, a physician or ~~APRN~~~~APN~~ may submit fee-for-service billings for implantable contraceptive devices administered in an FQHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:
  - A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;
  - B) The FQHC must be listed as the payee on the claim;
  - C) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
  - D) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.
- 9) Effective July 1, 2013, an FQHC may submit fee-for-service billings for LARCs. For dates of service October 1, 2014 and after, an FQHC may submit fee-for-service billing for non-surgical transcervical permanent contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:
  - A) To the extent that the LARCs or transcervical permanent devices were purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;

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- B) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
  - C) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.
- 10) Tobacco cessation counseling services may be billed as an encounter if furnished by a provider as defined in Section 140.413(a)(15) within the designated coverage limitations.
- e) School Based/Linked Health Clinics (Centers)  
Covered services are the following services, when delivered in a school based/linked health center setting as described in Section 140.461(f):
- 1) Basic medical services: well child or adolescent exams, consisting of a comprehensive health history, complete physical assessment, screening procedures and age appropriate anticipatory guidance; immunizations; EPSDT services; diagnosis and treatment of acute illness and injury; basic laboratory tests; prescriptions and dispensing of commonly used medications for identified health conditions, in accordance with Medical Practice and Pharmacy Practice Acts; and acute management and on-going monitoring of chronic conditions, such as asthma, diabetes and seizure disorders.
  - 2) Reproductive health services: gynecological exams; diagnosis and treatment of sexually transmitted diseases; family planning; prescribing and dispensing of birth control or referral for birth control services; pregnancy testing; treatment or referral for prenatal and postpartum care; and cancer screening.

(Source: Amended at 43 Ill. Reg. 4094, effective March 25, 2019)

**Section 140.490 Medical Transportation**

- a) Payment for medical transportation shall be made to an individual, public, private or not-for-profit transportation carrier, whose operators are properly licensed, who provides the appropriate form of transportation and who bills and receives

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payment from the general public and other third party payors (except for private autos pursuant to subsection (a)(5)-~~of this Section~~). Eligible providers to be considered for payment include:

- 1) Ambulance providers who hold a valid license, permit or certification from the state where the business is headquartered or from the Secretary of State (see Section 3-401 of the Illinois Vehicle Title and Registration Law [625 ILCS 5/3-401] and Section 8-101 of the Illinois Vehicle Code [625 ILCS 5/8-101]) and pass health/safety inspections annually by the Department of Public Health (see the Emergency Medical Services (EMS) Systems Act [210 ILCS 50]). Out-of-state ambulance providers who provide services within Illinois must be in compliance with the EMS Systems Act [210 ILCS 50]. Vehicles operated by municipalities must meet the certification requirements contained in 77 Ill. Adm. Code 535, Subpart C, by July 1, 1987. The Department will grant exceptions to this requirement if the municipality can demonstrate that the Illinois Department of Public Health has granted a waiver or exception to such requirement.
- 2) Medi-car vehicles licensed by the Secretary of State (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or that hold a valid license, permit or certification from the state where the business is headquartered. Medi-car service is defined as transportation provided to a patient who is confined to a wheelchair and requires the use of a hydraulic or electric lift or ramp and wheelchair lockdown when the patient's condition does not require medical observation, medical supervision, medical equipment, the administration of medications, or the administration of oxygen.
- 3) Taxicabs licensed by the Secretary of State and, whenwhere applicable, by local regulatory agencies (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or that hold a valid license, permit or certification from the state where the business is headquartered.
- 4) Service cars licensed as livery cars by the Secretary of State and, whenwhere applicable, by local regulatory agencies (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or that hold a valid license, permit or certification

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from the state where the business is headquartered. Service car service is defined as transportation provided to a patient by a passenger vehicle when that patient does not require ambulance or medi-car services.

- 5) Private automobiles licensed by the Secretary of State (see Section 3-401 of the Illinois Vehicle Title and Registration Law and Section 8-101 of the Illinois Vehicle Code) or licensed in the state of the owner's residence.
  - 6) Helicopter providers who hold a valid license from the State of Illinois issued under the authority of the State of Illinois Department of Public Health, or are licensed in the state where services are provided.
  - 7) Other modes of transportation such as buses, trains and commercial airplanes.
- b) Except as provided in subsection (c) ~~of this Section~~, payment for medical transportation shall be made when transportation is provided for an eligible recipient to or from a source of medical care. Medical care is defined as any medically necessary service covered under the Medical Assistance Program. Payment for transportation will be made even when a covered medical service is provided free of charge or is reimbursed by a third party (for example, services provided by the U.S. Department of Veterans' Affairs).
- c) Payment for medical transportation shall not be made when:
- 1) A means of transportation to the source of medical care is available free of charge;
  - 2) The transportation is for the purpose of filling a prescription or obtaining medical supplies, equipment or any other pharmacy related item; or
  - 3) Proper prior or post approval authorization has not been made by the Department or its authorized agent.
- d) When more than one passenger requiring medical services is transported, payment for the first passenger will be at the full rate including mileage, base rate and ancillaries, if provided; payment for the second or additional passengers requiring medical services will be at only the base rate and ancillaries, if provided.

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- e) Coverage for an employee attendant and a non-employee attendant.
- 1) For the purposes of this subsection (e):
    - A) "Employee attendant" means a person, other than the driver, who is an employee of a medi\_car, service car or taxicab.
    - B) "Non-employee attendant" means a family member or other individual who may accompany the patient when there is a medical need for such an attendant.
  - 2) The Department will pay for an attendant to accompany an eligible patient to and from the source of a covered medical service, by a medi\_car, a service car or a taxicab, when the circumstances constitute one of the following medical necessities. A physician's statement may be required to verify the medical necessity.
    - A) To accompany the patient to a medical provider when needed, such as a parent going with a child to the doctor or when an attendant is needed to assist the patient;
    - B) To participate in the patient's treatment when medically necessary; or
    - C) To learn to care for the patient after discharge from the hospital.
  - 3) The Department does not pay for transportation of family members to visit a hospitalized patient.
  - 4) For dates of service prior to July 1, 2006, the use of an attendant is subject to prior approval in all situations except for the non-emergency trips described in Section 140.491(b)(2). In the instances that prior approval is not required for an attendant, medical necessity must be documented in the record. The Department's authorized prior approval agent may require documentation of medical necessity. A medi\_car company may bill for the services of an employee and a non-employee attendant. Billings for the services of an employee attendant and a non-employee attendant are allowable when ~~thesuch~~ services are rendered during a single trip. Service car and taxicab providers may receive payment only for a non-employee

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attendant.

- 5) For dates of service on or after July 1, 2006, the use of an attendant is subject to prior approval in all situations except for the non-emergency trips described in Section 140.491(b)(2). In the instances in which prior approval is not required for an attendant, medical necessity must be documented in the record. The Department's authorized prior approval agent may require documentation of medical necessity. A medi\_car, service car or taxicab may bill for the services of an employee and a non-employee attendant.
- f) Safety program certification requirement.
- 1) Safety training programs shall be approved by the Department and must include, at a minimum, all of the following components applicable to both drivers and employee attendants:
    - A) Passengers Assistance. Training must contain and/or convey information on courteous treatment of passengers; an understanding of different disabilities; instructions on safely loading and unloading passengers, including passengers with disability devices; and procedures for dropping off and picking up passengers.
    - B) Vehicle Operation and Passenger Safety. Training must contain information on vehicle inspection; proper seatbelt usage for adults; proper infant and child restraint usage, including proper method for securing child seats; and proper usage of security lock-down devices.
    - C) Emergency Procedures. Training must contain information on the usage of vehicle emergency equipment; procedures to follow in case of an accident or breakdown; and proper precautions and cleanup of blood borne pathogens.
  - 2) For dates of service on or after July 1, 2008, all providers of non-emergency medi\_car and service car transportation must certify that all drivers and employee attendants have completed a safety program approved by the Department, prior to supplying medical transportation to

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a client. For services provided between July 1, 2008 and October 31, 2008, the Department will consider providers in compliance with the safety program certification requirement, if the employee driver and/or attendant completed an approved safety training program by November 1, 2008.

- 3) Drivers and employee attendants transporting participants of the Department's Medical Assistance programs must complete an approved safety program every three years. Documentation certifying completion of an approved safety program must be maintained by the transportation provider and available to the Department upon request. The safety program certification shall not be issued by an entity affiliated with the transportation provider.
- 4) The names of the driver and employee attendant actually transporting the participant shall be documented in the medical transportation service record as required at Section 140.494(a).
- 5) Failure of the transportation provider to maintain and, upon request from the Department, produce the documentation of required training shall result in the recovery of all payments made by the Department for services rendered by a non-certified driver or employee attendant.
- 6) Exceptions to the safety program certification requirement will be permitted only in the following circumstances and documentation substantiating the exception must be available to the Department upon request.
  - A) The medi-car or service car provider receives federal funding under 49 USC 5307 or 5311. The exception is applicable only during the period of federal funding.
  - B) The driver or attendant is licensed as an Emergency Medical Technician by the Illinois Department of Public Health, or comparable licensing entity in the state in which the transportation provider is located. This exception is applicable only for periods that the individual holds an active EMT license.
  - C) The driver or attendant holds a valid School Bus Driver Permit pursuant to 625 ILCS 5/6-106.1 and is providing services on behalf

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of a local education agency. This exception is applicable only for periods that the individual holds a current valid school bus permit.

(Source: Amended at 43 Ill. Reg. 4094, effective March 25, 2019)

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- 1) Heading of the Part: Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code
- 2) Code Citation: 77 Ill. Adm. Code 515
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
515.100	Amendment
515.550	Amendment
515.827	New Section
- 4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]
- 5) Effective Date of Rules: March 19, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) 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*: 42 Ill. Reg. 20621; November 26, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were 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: This rulemaking implements PA 100-108. This legislation granted authority to the Department to adopt standards to allow ambulance assist vehicles to upgrade the level of care provided based on the highest level of certification of on-board personnel. In addition, it also allows the Department to adopt

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standards for those EMS providers and systems that choose to treat and transport a police dog that has been injured in the line of duty.

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

Erin Conley  
Rules Coordinator  
Illinois Department of Public Health  
Division of Legal Services  
535 W. Jefferson St., 5th Floor  
Springfield IL 62761

217/782-2043  
e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

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

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 515  
EMERGENCY MEDICAL SERVICES, TRAUMA CENTER,  
COMPREHENSIVE STROKE CENTER, PRIMARY STROKE CENTER  
AND ACUTE STROKE READY HOSPITAL CODE

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SUBPART D: EDUCATION OF EMERGENCY MEDICAL TECHNICIANS, ADVANCED EMERGENCY MEDICAL TECHNICIANS, EMERGENCY MEDICAL TECHNICIANS-INTERMEDIATE, PARAMEDICS AND EMS PERSONNEL

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**AUTHORITY:** Implementing and authorized by the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

**SOURCE:** Emergency Rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995 for a maximum of 150 days; emergency expired January 28, 1996; adopted at 20 Ill. Reg. 3203, effective February 9, 1996; emergency amendment at 21 Ill. Reg. 2437, effective January 31, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5170, effective April 15, 1997; amended at 22 Ill. Reg. 11835, effective June 25, 1998; amended at 22 Ill. Reg. 16543, effective September 8, 1998; amended at 24 Ill. Reg. 8585, effective June 10, 2000; amended at 24 Ill. Reg. 9006, effective June 15, 2000; amended at 24 Ill. Reg. 19218, effective December 15, 2000; amended at 25 Ill. Reg. 16386, effective December 20, 2001; amended at 26 Ill. Reg. 18367, effective December 20, 2002; amended at 27 Ill. Reg. 1277, effective January 10, 2003; amended at 27 Ill. Reg. 6352, effective April 15, 2003; amended at 27 Ill. Reg. 7302, effective April 25, 2003; amended at 27 Ill. Reg. 13507, effective July 25, 2003; emergency amendment at 29 Ill. Reg. 12640, effective July 29, 2005, for a maximum of 150 days; emergency expired December

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25, 2005; amended at 30 Ill. Reg. 8658, effective April 21, 2006; amended at 32 Ill. Reg. 16255, effective September 18, 2008; amended at 35 Ill. Reg. 6195, effective March 22, 2011; amended at 35 Ill. Reg. 15278, effective August 30, 2011; amended at 35 Ill. Reg. 16697, effective September 29, 2011; amended at 35 Ill. Reg. 18331, effective October 21, 2011; amended at 35 Ill. Reg. 20609, effective December 9, 2011; amended at 36 Ill. Reg. 880, effective January 6, 2012; amended at 36 Ill. Reg. 2296, effective January 25, 2012; amended at 36 Ill. Reg. 3208, effective February 15, 2012; amended at 36 Ill. Reg. 11196, effective July 3, 2012; amended at 36 Ill. Reg. 17490, effective December 3, 2012; amended at 37 Ill. Reg. 5714, effective April 15, 2013; amended at 37 Ill. Reg. 7128, effective May 13, 2013; amended at 37 Ill. Reg. 10683, effective June 25, 2013; amended at 37 Ill. Reg. 18883, effective November 12, 2013; amended at 37 Ill. Reg. 19610, effective November 20, 2013; amended at 38 Ill. Reg. 9053, effective April 9, 2014; amended at 38 Ill. Reg. 16304, effective July 18, 2014; amended at 39 Ill. Reg. 13075, effective September 8, 2015; amended at 40 Ill. Reg. 8274, effective June 3, 2016; amended at 40 Ill. Reg. 10006, effective July 11, 2016; recodified at 42 Ill. Reg. 10700; amended at 42 Ill. Reg. 17632, effective September 20, 2018; amended at 43 Ill. Reg. 4145, effective March 19, 2019.

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**Section 515.100 Definitions**

Act – the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

*Acute Stroke-Ready Hospital or ASRH – a hospital that has been designated by the Department as meeting the criteria for providing emergent stroke care. Designation may be provided after a hospital has been certified or through application and designation as an Acute Stroke-Ready Hospital. (Section 3.116 of the Act)*

*Advanced Emergency Medical Technician or A-EMT – a person who has successfully completed a course in basic and limited advanced emergency medical care as approved by the Department, is currently licensed by the Department in accordance with standards prescribed by the Act and this Part, and practices within an Intermediate or Advanced Life Support EMS System. (Section 3.50(b-5) of the Act)*

*Advanced Life Support Services or ALS Services – an advanced level of pre-hospital and inter-hospital emergency care and non-emergency medical services that includes basic life support care, cardiac monitoring, cardiac defibrillation,*

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*electrocardiography, intravenous therapy, administration of medications, drugs and solutions, use of adjunctive medical devices, trauma care, and other authorized techniques and procedures as outlined in the National EMS Education Standards relating to Advanced Life Support and any modifications to that curriculum or those standards specified in this Part. (Section 3.10(a) of the Act)*

Aeromedical Crew Member or Watercraft Crew Member or Off-road Specialized Emergency Medical Services Vehicle (SEMSV) Crew Member – an individual, other than an EMS pilot, who has been approved by an SEMSV Medical Director for specific medical duties in a helicopter or fixed-wing aircraft, on a watercraft, or on an off-road SEMSV used in a Department-certified SEMSV Program.

Alternate EMS Medical Director or Alternate EMS MD – the physician who is designated by the Resource Hospital to direct the ALS/Advanced/ILS/BLS operations in the absence of the EMS Medical Director.

Alternate Response Vehicle – ambulance assist vehicles and non-transport vehicles as defined in Section 515.825 [and Section 515.827](#).

*Ambulance – any publicly or privately owned on-road vehicle that is specifically designed, constructed or modified and equipped for, and is intended to be used for, and is maintained or operated for, the emergency transportation of persons who are sick, injured, wounded or otherwise incapacitated or helpless, or the non-emergency medical transportation of persons who require the presence of medical personnel to monitor the individual's condition or medical apparatus being used on such individuals. (Section 3.85 of the Act)*

*Ambulance Assistance Vehicle Provider – a provider of ambulance assistance vehicles that is licensed under the Act and serves a population within the State. (Section 3.88(a) of the Act)*

Ambulance Service Provider and Vehicle Service Provider Upgrades – Rural Population – a practice that allows an ambulance, alternate response vehicle, specialized emergency medical services vehicle or vehicle service provider that serves a population of 7,500 or fewer to upgrade the level of service of the provider vehicle using pre-approved System personnel and equipment.

Ambulance Service Provider – any individual, group of individuals, corporation, partnership, association, trust, joint venture, unit of local government or other

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public or private ownership entity that owns and operates a business or service using one or more ambulances or EMS vehicles for the transportation of emergency patients.

Applicant – an individual or entity applying for a Department-issued license or certification.

Associate Hospital – a hospital participating in an approved EMS System in accordance with the EMS System Program Plan, fulfilling the same clinical and communications requirements as the Resource Hospital. This hospital has neither the primary responsibility for conducting education programs nor the responsibility for the overall operation of the EMS System program. The Associate Hospital must have a basic or comprehensive emergency department with 24-hour physician coverage. It shall have a functioning Intensive Care Unit or a Cardiac Care Unit.

Associate Hospital EMS Coordinator – the Paramedic or Registered Nurse at the Associate Hospital who shall be responsible for duties in relation to the EMS System, in accordance with the Department-approved EMS System Program Plan.

Associate Hospital EMS Medical Director – the physician at the Associate Hospital who shall be responsible for the day-to-day operations of the Associate Hospital in relation to the EMS System, in accordance with the Department-approved EMS System Program Plan.

Basic Emergency Department – a classification of a hospital emergency department where at least one physician is available in the emergency department at all times; physician specialists are available in minutes; and ancillary services, including laboratory, x-ray and pharmacy, are staffed or are "on-call" at all times in accordance with Section 250.710 of the Hospital Licensing Requirements.

*Basic Life Support or BLS Services – a basic level of pre-hospital and inter-hospital emergency care and non-emergency medical services that includes medical monitoring, clinical observation, airway management, cardiopulmonary resuscitation (CPR), control of shock and bleeding and splinting of fractures, as outlined in the National EMS Education Standards relating to Basic Life Support and any modifications to that curriculum or standards specified in this Part. (Section 3.10(c) of the Act)*

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Board Eligible in Emergency Medicine – completion of a residency in Emergency Medicine in a program approved by the Residency Review Committee for Emergency Medicine or the Council on Postdoctoral Training (COPT) for the American Osteopathic Association (AOA).

Continuing Education or CE – Ongoing emergency medical education after licensure that is designated to maintain, update or upgrade medical knowledge and skills.

Certified Registered Nurse Anesthetist or CRNA – a licensed Registered Professional Nurse who has had additional education beyond the Registered Professional Nurse requirements at a school/program accredited by the National Council on Accreditation; who has passed the certifying exam given by the National Council on Certification; and who, by participating in 40 hours of continuing education every two years, has been recertified by the National Council on Recertification.

Child Abuse and Neglect – see the definitions of "abused child" and "neglected child" in Section 3 of the Abused and Neglected Child Reporting Act.

Child Life Specialist – A person whose primary role is to minimize the adverse effects of children's experiences by facilitating coping and the psychosocial adjustment of children and their families through the continuum of care.

*Clinical Observation – ongoing observation of a patient's condition by a licensed health care professional utilizing a medical skill set while continuing assessment and care. (Section 3.5 of the Act)*

Comprehensive Emergency Department – a classification of a hospital emergency department where at least one licensed physician is available in the emergency department at all times; physician specialists shall be available in minutes; ancillary services, including laboratory and x-ray, are staffed at all times; and the pharmacy is staffed or "on-call" at all times in accordance with Section 250.710 of the Hospital Licensing Requirements.

*Comprehensive Stroke Center or CSC – a hospital that has been certified and has been designated as a Comprehensive Stroke Center under Subpart K. (Section 3.116 of the Act)*

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CPR for Healthcare Providers – a course in cardiopulmonary resuscitation that meets or exceeds the American Heart Association course "BLS for Healthcare Providers".

Critical Care Transport or CCT or Specialty Care Transport or SCT – *pre-hospital or inter-hospital transportation of a critically injured or ill patient by a vehicle service provider, including the provision of medically necessary supplies and services, at a level of service beyond the scope of the Paramedic. When medically indicated for a patient, as determined by a physician licensed to practice medicine in all of its branches, an Advanced Practice Registered Nurse, or a physician assistant, in compliance with ~~subsections (b) and (c) of~~ Section 3.155(b) and (c) of the Act.*(Section 3.10(f-5).

Department or IDPH – *the Illinois Department of Public Health.* (Section 3.5 of the Act)

Director – *the Director of the Illinois Department of Public Health* or his/her designee. (Section 3.5 of the Act)

Door-to-\_\_\_\_\_ – The time from patient arrival at the health care facility until the specified result, procedure or intervention occurs.

Dysrhythmia – a variation from the normal electrical rate and sequences of cardiac activity, also including abnormalities of impulse formation and conduction.

Electrocardiogram or EKG – a single lead graphic recording of the electrical activity of the heart by a series of deflections that represent certain components of the cardiac cycle.

Emergency – *a medical condition of recent onset and severity that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe that urgent or unscheduled medical care is required.* (Section 3.5 of the Act)

Emergency Communications Registered Nurse or ECRN – *a Registered Professional Nurse licensed under the Nurse Practice Act who has successfully completed supplemental education in accordance with this Part and who is approved by an EMS Medical Director to monitor telecommunications from and*

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*give voice orders to EMS System personnel, under the authority of the EMS Medical Director and in accordance with System protocols.* (Section 3.80 of the Act) For out-of-state facilities that have Illinois recognition under the EMS, trauma or pediatric programs, the professional shall have an unencumbered license in the state in which he or she practices.

Emergency Department Approved for Pediatrics or EDAP – a hospital participating in an approved EMS System and designated by the Department pursuant to Section 515.4000 of this Part as being capable of providing optimal emergency department care to pediatric patients 24 hours per day.

Emergency Medical Dispatch Priority Reference System or EMDPRS – an EMS System's organized approach to the receipt, management and disposition of a request for emergency medical services.

*Emergency Medical Dispatcher or EMD – a person who has successfully completed a training course in emergency medical dispatching in accordance with this Part, who accepts calls from the public for emergency medical services and dispatches designated emergency medical services personnel and vehicles.* (Section 3.70 of the Act)

Emergency Medical Responder or EMR (AKA First Responder) – a person who has successfully completed a course of instruction for the Emergency Medical Responder as approved by the Department, who provides Emergency Medical Responder services prior to the arrival of an ambulance or specialized emergency medical services vehicle, in accordance with the level of care established in the National EMS Educational Standards for Emergency Medical Responders as modified by the Department.

*Emergency Medical Responder Services – a preliminary level of pre-hospital emergency care that includes cardiopulmonary resuscitation (CPR), monitoring vital signs and control of bleeding, as outlined in the Emergency Medical Responder (EMR) curriculum of the National EMS Education standards and any modifications to that curriculum (standards) specified in this Part.* (Section 3.10(d) of the Act)

*Emergency Medical Services Personnel or EMS Personnel – persons licensed as an Emergency Medical Responder (EMR) (First Responder), Emergency Medical Dispatcher (EMD), Emergency Medical Technician (EMT), Emergency Medical*

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*Technician-Intermediate (EMT-I), Advanced Emergency Medical Technician (A-EMT), Paramedic, Emergency Communications Registered Nurse (ECRN), or Pre-Hospital Registered Nurse (PHRN). (Section 3.5 of the Act)*

*Emergency Medical Services System or EMS System or System – an organization of hospitals, vehicle service providers and personnel approved by the Department in a specific geographic area, which coordinates and provides pre-hospital and inter-hospital emergency care and non-emergency medical transports at a BLS, ILS and/or ALS level pursuant to a System Program Plan submitted to and approved by the Department, and pursuant to the EMS Region Plan adopted for the EMS Region in which the System is located. (Section 3.20(a) of the Act)*

Emergency Medical Services System Survey – a questionnaire that provides data to the Department for the purpose of compiling annual reports.

*Emergency Medical Technician or EMT (AKA EMT-B) – a person who has successfully completed a course in basic life support as approved by the Department, is currently licensed by the Department in accordance with standards prescribed by the Act and this Part and practices within an EMS System. (Section 3.50(a) of the Act)*

Emergency Medical Technician-Coal Miner – for purposes of the Coal Mine Medical Emergencies Act, an EMT, A-EMT, EMT-I or Paramedic who has received additional education emphasizing extrication from a coal mine.

*Emergency Medical Technician-Intermediate or EMT-I – a person who has successfully completed a course in intermediate life support as approved by the Department, is currently licensed by the Department in accordance with the standards prescribed in this Part and practices within an Intermediate or Advanced Life Support EMS System. (Section 3.50(b) of the Act)*

*Emergent Stroke Care – emergency medical care that includes diagnosis and emergency medical treatment of suspected or known acute stroke patients. (Section 3.116 of the Act)*

*Emergent Stroke Ready Hospital – a hospital that has been designated by the Department as meeting the criteria for providing emergent stroke care as set forth in the Act and Section 515.5060. (Section 3.116 of the Act)*

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EMS – emergency medical services.

*EMS Administrative Director – the administrator, appointed by the Resource Hospital in consultation with the EMS Medical Director, in accordance with this Part, responsible for the administration of the EMS System. (Section 3.35 of the Act)*

EMSC – Emergency Medical Services for Children.

*EMS Lead Instructor or LI – a person who has successfully completed a course of education as approved by the Department in this Part, and who is currently approved by the Department to coordinate or teach education, training and continuing education courses, in accordance with this Part. (Section 3.65(a) of the Act)*

EMS Medical Director or EMS MD – the physician, appointed by the Resource Hospital, who has the responsibility and authority for total management of the EMS System.

EMS Regional Plan – a plan established by the EMS Medical Director's Committee in accordance with Section 3.30 of the Act.

EMS System Coordinator – an individual responsible to the EMS Medical Director and EMS Administrative Director for coordination of the educational and functional aspects of the System program.

EMS System Program Plan – the document prepared by the Resource Hospital and approved by the Department that describes the EMS System program and directs the program's operation.

Fixed-Wing Aircraft – an engine-driven aircraft that is heavier than air, and is supported in-flight by the dynamic reaction of the air against its wings.

Full-Time – on duty a minimum of 36 hours a week.

Half-Duplex Communications – a radio or device that transmits and receives signals in only one direction at a time.

*Health Care Facility – a hospital, nursing home, physician's office or other fixed*

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*location at which medical and health care services are performed. It does not include "pre-hospital emergency care settings" that utilize EMS Personnel to render pre-hospital emergency care prior to the arrival of a transport vehicle, as defined in the Act and this Part. (Section 3.5 of the Act)*

Helicopter or Rotorcraft – an aircraft that is capable of vertical take offs and landings, including maintaining a hover.

Helicopter Shopping – the practice of calling various operators until a helicopter emergency medical services (HEMS) operator agrees to take a flight assignment, without sharing with subsequent operators that the previously called operators declined the flight, or the reasons why the flight was declined.

Hospital – *has the meaning ascribed to that term in Section 3 of the Hospital Licensing Act. (Section 3.5 of the Act)*

Hospitalist – a physician who primarily provides unit-based/in-hospital services.

In-Field Service Level Upgrade – a practice that allows the delivery of advanced care from a lower level service provider by a licensed higher level of care ambulance, alternate response vehicle, or specialized emergency medical services vehicle according to a pre-approved written plan approved by the local EMS Medical Director.

Instrument Flight Rules or IFR – the operation of an aircraft in weather minimums below the minimums for flight under visual flight rules (VFR). (See General Operating and Flight Rules, 14 CFR 91.115 through 91.129.)

Instrument Meteorological Conditions or IMC – meteorological conditions expressed in terms of visibility, distance from clouds and ceiling, which require Instrument Flight Rules.

*Intermediate Life Support Services or ILS Services – an intermediate level of pre-hospital and inter-hospital emergency care and non-emergency medical services that includes basic life support care plus intravenous cannulation and fluid therapy, invasive airway management, trauma care, and other authorized techniques and procedures as outlined in the Intermediate Life Support national curriculum of the United States Department of Transportation and any modifications to that curriculum specified in this Part. (Section 3.10 of the Act)*

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Level I Trauma Center – a hospital participating in an approved EMS System and designated by the Department pursuant to Section 515.2030 to provide optimal care to trauma patients and to provide all essential services in-house, 24 hours per day.

Level II Trauma Center – a hospital participating in an approved EMS System and designated by the Department pursuant to Section 515.2040 to provide optimal care to trauma patients, to provide some essential services available in-house 24 hours per day, and to provide other essential services readily available 24 hours a day.

Licensee – an individual or entity to which the Department has issued a license.

*Limited Operation Vehicle – a vehicle which is licensed by the Department to provide basic, intermediate or advanced life support emergency or non-emergency medical services that are exclusively limited to specific events or locales. (Section 3.85 of the Act)*

Local System Review Board – a group established by the Resource Hospital to hear appeals from EMS Personnel or other providers who have been suspended or have received notification of suspension from the EMS Medical Director.

*Medical Monitoring – the performance of medical tests and physical exams to evaluate an individual's on-going exposure to a factor that could negatively impact that person's health. This includes close surveillance or supervision of patient's liable to suffer deterioration in physical or mental health and checks of various parameters such as pulse rate, temperature, respiration rate, the condition of the pupils, the level of consciousness and awareness, the degree of appreciation of pain, and blood gas concentrations such as oxygen and carbon dioxide. (Section 3.5 of the Act)*

Mobile Radio – a two-way radio installed in an EMS vehicle, which may not be readily removed.

Morbidity – a negative outcome that is the result of the original medical or trauma condition or treatment rendered or omitted.

911 – an emergency answer and response system in which the caller need only

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dial 9-1-1 on a telephone or mobile device to obtain emergency services, including police, fire, medical ambulance and rescue.

*Non-emergency Medical Care – medical care, clinical observation, or medical monitoring rendered to patients whose conditions do not meet the Act's definition of emergency, before or during transportation of such patients to or from health care facilities visited for the purpose of obtaining medical or health care services that are not emergency in nature, using a vehicle regulated by the Act and this Part. (Section 3.10(g) of the Act)*

Nurse Practitioner – a person who is licensed as a Nurse Practitioner under the Nurse Practice Act. For out-of-state facilities that have Illinois recognition under the EMS, trauma or pediatric programs, the professional shall have an unencumbered license in the state in which he or she practices.

Off-Road Specialized Emergency Medical Services Vehicle or Off-Road SEMSV or Off-Road SEMS Vehicle – a motorized cart, golf cart, all-terrain vehicle (ATV), or amphibious vehicle that is not intended for use on public roads.

*Paramedic or EMT-P – a person who has successfully completed a course in advanced life support care as approved by the Department, is currently licensed by the Department in accordance with standards prescribed by the Act and this Part and practices within an Advanced Life Support EMS System. (Section 3.50 of the Act)*

Participating Hospital – a hospital participating in an approved EMS System in accordance with the EMS System Program Plan, which is not a Resource Hospital or an Associate Hospital.

Pediatric Critical Care Center or PCCC – a hospital participating in an approved EMS System and designated by the Department as being capable of providing optimal critical and specialty care services to pediatric patients, and of providing all essential services either in-house or readily available 24 hours per day.

Pediatric Patient – patient from birth through 15 years of age.

Physician – any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987. For out-of-state facilities that have Illinois recognition under the EMS, trauma or pediatric programs, the professional shall

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have an unencumbered license in the state in which he or she practices.

Physician Assistant – a person who is licensed under the Physician Assistant Practice Act. For out-of-state facilities that have Illinois recognition under the EMS, trauma or pediatric programs, the professional shall have an unencumbered license in the state in which he or she practices.

Pilot or EMS Pilot – a pilot certified by the Federal Aviation Administration who has been approved by an SEMSV Medical Director to fly a helicopter or fixed-wing aircraft used in a Department-certified SEMSV Program.

*Police Dog – a specially trained dog owned or used by a law enforcement department or agency in the course of the department's or agency's official work, including a search and rescue dog, service dog, accelerant detection canine, or other dog that is in use by a county, municipal, or State law enforcement agency for official duties. (Section 3.55(e) of the Act)*

Practitioner Order for Life-Sustaining Treatment on POLST or Do Not Resuscitate or DNR – an authorized practitioner order that reflects an individual's wishes about receiving cardiopulmonary resuscitation (CPR) and life-sustaining treatments, including medical interventions and artificially administered nutrition.

*Pre-Hospital Care – those medical services rendered to patients for analytic, resuscitative, stabilizing, or preventive purposes, precedent to and during transportation of such patients to healthcare facilities. (Section 3.10(e) of the Act)*

Pre-Hospital Care Participants – Any EMS Personnel, Ambulance Service Provider, EMS Vehicle, Associate Hospital, Participating Hospital, EMS Administrative Director, EMS System Coordinator, Associate Hospital EMS Coordinator, Associate Hospital EMS Medical Director, ECRN, Resource Hospital, Emergency Dispatch Center or physician serving on an ambulance or non-transport vehicle or giving voice orders for an EMS System and who are subject to suspension by the EMS Medical Director of that System in accordance with the policies of the EMS System Program Plan approved by the Department.

*Pre-Hospital Registered Nurse or PHRN – a Registered Professional Nurse, with an unencumbered Registered Nurse license in the state in which he or she practices who has successfully completed supplemental education in accordance*

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*with this Part and who is approved by an Illinois EMS Medical Director to practice within an EMS System for pre-hospital and inter-hospital emergency care and non-emergency medical transports. (Section 3.80 of the Act) For out-of-state facilities that have Illinois recognition under the EMS, trauma or pediatric programs, the professional shall have an unencumbered license in the state in which he or she practices.*

*Primary Stroke Center or PSC – a hospital that has been certified by a Department-approved, nationally recognized certifying body and designated as a Primary Stroke Center by the Department. (Section 3.116 of the Act)*

Provisional EMR – a person who is at least 16 years of age, who has successfully completed a course of instruction for emergency medical responders as prescribed by the Department and passed the exam, and who functions within an approved EMS System pursuant to Section 515.715.

*Regional EMS Advisory Committee – a committee formed within an Emergency Medical Services Region to advise the Region's EMS Medical Directors Committee and to select the Region's representative to the State Emergency Medical Services Advisory Council, consisting of at least the members of the Region's EMS Medical Directors Committee, the Chair of the Regional Trauma Committee, the EMS System Coordinators from each Resource Hospital within the Region, one administrative representative from an Associate Hospital within the Region, one administrative representative from a Participating Hospital within the Region, one administrative representative from the vehicle service provider which responds to the highest number of calls for emergency service within the Region, one administrative representative of a vehicle service provider from each System within the Region, one individual from each level of license provided by the Act, one Pre-Hospital Registered Nurse practicing within the Region, and one Registered Professional Nurse currently practicing in an emergency department within the Region. Of the two administrative representatives of vehicle service providers, at least one shall be an administrative representative of a private vehicle service provider. The Department's Regional EMS Coordinator for each Region shall serve as a non-voting member of that Region's EMS Advisory Committee. (Section 3.25 of the Act)*

Regional EMS Coordinator – the designee of the Chief, Division of Emergency Medical Services and Highway Safety, Illinois Department of Public Health.

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Regional EMS Medical Directors Committee – a group *comprised of the Region's EMS Medical Directors, along with the medical advisor to a fire department vehicle service provider. For regions that include a municipal fire department serving a population of over 2,000,000 people, that fire department's medical advisor shall serve on the Committee. For other regions, the fire department vehicle service providers shall select which medical advisor to serve on the Committee on an annual basis.* (Section 3.25 of the Act)

*Regional Stroke Advisory Subcommittee – a subcommittee formed within each Regional EMS Advisory Committee to advise the Director and the Region's EMS Medical Directors Committee on the triage, treatment, and transport of possible acute stroke patients and to select the Region's representative to the State Stroke Advisory Subcommittee.* (Section 3.116 of the Act) The composition of the Subcommittee shall be as set forth in Section 3.116 of the Act.

*Regional Trauma Advisory Committee – a committee formed within an Emergency Medical Services Region, to advise the Region's Trauma Center Medical Directors Committee, consisting of at least the Trauma Center Medical Directors and Trauma Coordinators from each trauma center within the Region, one EMS Medical Director from a Resource Hospital within the Region, one EMS System Coordinator from another Resource Hospital within the Region, one representative each from a public and private vehicle service provider which transports trauma patients within the Region, an administrative representative from each trauma center within the Region, one EMR, EMD, EMT, EMT-I, A-EMT, Paramedic, ECRN, or PHRN representing the highest level of EMS Personnel practicing within the Region, one emergency physician and one Trauma Nurse Specialist currently practicing in a trauma center. The Department's Regional EMS Coordinator for each Region shall serve as a non-voting member of that Region's Trauma Advisory Committee.* (Section 3.25 of the Act)

Registered Nurse or Registered Professional Nurse or RN – a person who is licensed as an RN under the Nurse Practice Act. For out-of-state facilities that have Illinois recognition under the EMS, trauma or pediatric programs, the professional shall have an unencumbered license in the state in which he or she practices.

Resource Hospital – the hospital with the authority and the responsibility for an

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EMS System as outlined in the Department-approved EMS System Program Plan. The Resource Hospital, through the EMS Medical Director, assumes responsibility for the entire program, including the clinical aspects, operations and education programs. This hospital agrees to replace medical supplies and provide for equipment exchange for participating EMS vehicles.

*Rural Ambulance Service Provider – an ambulance service provider licensed under the Act that serves a rural population of 7,500 or fewer inhabitants. (Section 3.87(a) of the Act)*

Rural In-Field Service Level Upgrade – a practice that allows the delivery of advanced care for a lower level service provider that serves a rural population of 7,500 or fewer inhabitants, through use of EMS System approved EMS personnel.

*Rural Vehicle Service Provider – an entity that serves a rural population of 7,500 or fewer inhabitants and is licensed by the Department to provide emergency or non-emergency medical services in compliance with the Act, this Part and an operational plan approved by the entity's EMS System, utilizing at least an ambulance, alternate response vehicle as defined by the Department in this Part, or specialized emergency medical services vehicle. (Section 3.87(a) of the Act)*

Screening – a preliminary procedure or assessment, such as a test or examination, to detect the most characteristic sign or signs of a disorder or condition that may require further investigation (for example, assessing for potential abuse or neglect through interview responses and behavioral/physical symptom clues).

SEMSV Medical Control Point or Medical Control Point – the communication center from which the SEMSV Medical Director or his or her designee issues medical instructions or advice to the aeromedical, watercraft, or off-road SEMSV crew members.

SEMSV Medical Director or Medical Director – the physician appointed by the SEMSV Program who has the responsibility and authority for total management of the SEMSV Program, subject to the requirements of the EMS System of which the SEMSV Program is a part.

SEMSV Program or Specialized Emergency Medical Services Vehicle Program – a program operating within an EMS System, pursuant to a program plan submitted to and certified by the Department, using specialized emergency

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medical services vehicles to provide emergency transportation to sick or injured persons.

*Special-Use Vehicle* – any publicly or privately owned vehicle that is specifically designed, constructed or modified and equipped, and is intended to be used for, and is maintained or operated solely for, the emergency or non-emergency transportation of a specific medical class or category of persons who are sick, injured, wounded or otherwise incapacitated or helpless (e.g., high-risk obstetrical patients, neonatal patients). (Section 3.85 of the Act)

*Specialized Emergency Medical Services Vehicle or SEMSV* – a vehicle or conveyance, other than those owned or operated by the federal government, that is primarily intended for use in transporting the sick or injured by means of air, water, or ground transportation, that is not an ambulance as defined in the Act. The term includes watercraft, aircraft and special purpose ground transport vehicles not intended for use on public roads. (Section 3.85 of the Act)

"Primarily intended", for the purposes of this definition, means one or more of the following:

Over 50 percent of the vehicle's operational (i.e., in-flight) hours are devoted to the emergency transportation of the sick or injured;

The vehicle is owned or leased by a hospital or ambulance provider and is used for the emergency transportation of the sick or injured;

The vehicle is advertised as a vehicle for the emergency transportation of the sick or injured;

The vehicle is owned, registered or licensed in another state and is used on a regular basis to pick up and transport the sick or injured within or from within this State; or

The vehicle's structure or permanent fixtures have been specifically designed to accommodate the emergency transportation of the sick or injured.

*Standby Emergency Department* – a classification of a hospital emergency department where at least one of the Registered Nurses on duty in the hospital is available for emergency services at all times, and a licensed physician is "on-call"

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to the emergency department at all times in accordance with Section 250.710 of the Hospital Licensing Requirements.

Standby Emergency Department Approved for Pediatrics or SEDP – a hospital participating in an approved EMS System and designated by the Department, pursuant to Section 515.4010, as being capable of providing optimal standby emergency department care to pediatric patients and to have transfer agreements and transfer mechanisms in place when more definitive pediatric care is needed.

State EMS Advisory Council – a group that advises the Department on the administration of the Act and this Part whose members are appointed in accordance with Section 3.200 of the Act.

Stretcher Van – a vehicle used by a licensed stretcher van provider to transport non-emergency passengers in accordance with the Act and this Part.

*Stretcher Van Provider – an entity licensed by the Department to provide non-emergency transportation of passengers on a stretcher in compliance with the Act and this Part, utilizing stretcher vans. (Section 3.86 of the Act)*

Stroke Network – a voluntary association of hospitals, including a hospital with a board eligible or board certified neurosurgeon or neurologist, that may, among other activities, share stroke protocols; provide medical consultations on possible or known acute stroke patients or on inter-facility transfers of possible or known acute stroke patients; or provide education specific to improving acute stroke care. Participating hospitals in a stroke network may be in-state or out-of-state.

Substantial Compliance – meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved.

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved.

Sustained Hypotension – two systolic blood pressures of 90 mmHg five minutes apart or, in the case of a pediatric patient, two systolic blood pressures of 80 mmHg five minutes apart.

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System Participation Suspension – the suspension from participation within an EMS System of an individual or individual provider, as specifically ordered by that System's EMS Medical Director.

Telecommunications Equipment – a communication system capable of transmitting and receiving voice and electrocardiogram (EKG) signals.

Telemetry – the transmission of data through a communication system to a receiving station for recording, interpretation and analysis.

*Trauma – any significant injury which involves single or multiple organ systems. (Section 3.5 of the Act)*

Trauma Category I – a classification of trauma patients in accordance with Appendix C and Appendix F.

Trauma Category II – a classification of trauma patients in accordance with Appendix C and Appendix F.

*Trauma Center – a hospital which: within designated capabilities provides optimal care to trauma patients; participates in an approved EMS System; and is duly designated pursuant to the provisions of the Act. (Section 3.90 of the Act)*

Trauma Center Medical Director or Trauma Center MD – the trauma surgeon appointed by a Department-designated Trauma Center who has the responsibility and authority for the coordination and management of patient care and trauma services at the Trauma Center. He or she must have 24-hour independent operating privileges and shall be board certified in surgery with at least one year of experience in trauma care.

Trauma Center Medical Directors Committee – a group composed of the Region's Trauma Center Medical Directors. (Section 3.25 of the Act)

Trauma Coordinator – a Registered Nurse working in conjunction with the Trauma Medical Director. The Trauma Coordinator is responsible for the organization of service and systems necessary for a multidisciplinary approach throughout the continuum of trauma care.

*Trauma Nurse Specialist or TNS – a Registered Professional Nurse licensed*

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*under the Nurse Practice Act who has successfully completed supplemental education and testing requirements as prescribed by the Department, and is licensed in accordance with this Part. (Section 3.75 of the Act) For out-of-state facilities that have Illinois recognition under the EMS, trauma or pediatric program, the professional shall have an unencumbered license in the state in which he or she practices.*

Trauma Nurse Specialist Course Coordinator or TNSCC – a Registered Nurse appointed by the Chief Executive Officer of a hospital designated as a TNS education site, who meets the requirements of Section 515.750.

Trauma Service – an identified hospital surgical service in a Level I or Level II Trauma Center functioning under a designated trauma director in accordance with Sections 515.2030(c) and 515.2040(c).

Unit Identifier – a number assigned by the Department for each EMS vehicle in the State to be used in radio communications.

*Vehicle Service Provider – an entity licensed by the Department to provide emergency or non-emergency medical services in compliance with the Act and this Part and an operational plan approved by its EMS Systems, utilizing at least ambulances or specialized emergency medical service vehicles (SEMSV). (Section 3.85(a) of the Act)*

Watercraft – a nautical vessel, boat, airboat, hovercraft or other vehicle that operates in, on or across water.

(Source: Amended at 43 Ill. Reg. 4145, effective March 19, 2019)

SUBPART D: EDUCATION OF EMERGENCY MEDICAL TECHNICIANS, ADVANCED EMERGENCY MEDICAL TECHNICIANS, EMERGENCY MEDICAL TECHNICIANS-INTERMEDIATE, PARAMEDICS AND EMS PERSONNEL

**Section 515.550 Scope of Practice – Licensed EMT and Paramedic**

- a) *Any person currently licensed as an EMT, EMT-I, A-EMT or Paramedic may only perform emergency and non-emergency medical services in accordance with his or her level of education, training and licensure, the standards of performance and conduct prescribed in this Part, and the requirements of the EMS System in*

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*which he or she practices, as contained in the approved Program Plan for that System. The Director may, by written order, temporarily modify individual scopes of practice in response to public health emergencies for periods not to exceed 180 days. (Section 3.55(a) of the Act)*

- b) *EMS Personnel who have successfully completed a Department-approved course in automated external defibrillator operation and who are functioning within a Department-approved EMS System may use an automated external defibrillator according to the standards of performance and conduct prescribed by the Department in this Part, and the requirements of the EMS System in which they practice, as contained in the approved Program Plan for that System. (Section 3.55(a-5) of the Act)*
- c) *An EMT, EMT-I, A-EMT or Paramedic who has successfully completed a Department-approved course in the administration of epinephrine shall be required to carry epinephrine with him or her as part of the EMS Personnel medical supplies whenever he or she is performing official duties, as determined by the EMS System. (Section 3.55 (a-7) of the Act)*
- d) *An EMR, EMT, EMT-I, A-EMT or Paramedic may only practice as an EMR, EMT, EMT-I, A-EMT or Paramedic or utilize his or her EMR, EMT, EMT-I, A-EMT or Paramedic license in pre-hospital or inter-hospital emergency care settings or non-emergency medical transport situations, under the written or verbal direction of the EMS MD. For purposes of this Section, a "pre-hospital emergency care setting" may include a location, that is not a health care facility, which utilizes EMS Personnel to render pre-hospital emergency care prior to the arrival of a transport vehicle. The location shall include communication equipment and all of the portable equipment and drugs appropriate for the EMT, EMT-I, A-EMT or Paramedic's level of care, and the protocols of the EMS Systems, and shall operate only with the approval and under the direction of the EMS MD.*
- e) *This does not prohibit an EMR, EMT, EMT-I, A-EMT or Paramedic from practicing within an emergency department or other health care setting for the purpose of receiving continuing education or training approved by the EMS MD. This also does not prohibit an EMT, EMT-I, A-EMT or Paramedic from seeking credentials other than his or her EMT, EMT-I, A-EMT or Paramedic license and utilizing such credentials to work in emergency departments or other health care settings under the jurisdiction of that employer. (Section 3.55(b) of the Act)*

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- f) *A student enrolled in a Department-approved EMS Personnel program, while fulfilling the clinical training and in-field supervised experience requirements mandated for licensure or approval by the System and the Department, may perform prescribed procedures under the direct supervision of a physician licensed to practice medicine in all of its branches, a qualified RN or a qualified EMS Personnel, only when authorized by the EMS MD. (Section 3.55(d) of the Act)*
- g) *An EMR, EMT, EMT-I, A-EMT or Paramedic may transport a police dog injured in the line of duty to a veterinary clinic or similar facility if there are no persons requiring any medical attention or transport at that time. (Section 3.55(e) of the Act) EMS Systems that choose to transport police dogs injured in the line of duty shall develop written policies or procedures for all of the following:*
- 1) *Basic level first aid and safe handling procedures for injured police dogs, including the use of a box muzzle, developed in consultation with a local veterinarian. The provision of Intermediate and Advanced Life Support care is not authorized and shall not be permitted unless the individual EMS provider is also appropriately licensed under the Illinois Veterinary Medicine and Surgery Practice Act [225 ILCS 115];*
  - 2) *Identification of local veterinary facilities that will provide emergency treatment of injured police dogs on short notice;*
  - 3) *Proper and complete decontamination of stretchers, the patient compartment, and all contaminated medical equipment, when a police dog has been transported by ambulance or other EMS vehicle; and*
  - 4) *The sterilization of the interior of an ambulance, including complete sanitizing of all allergens and disinfecting to a standard safe for human transport before being returned to human service.*

(Source: Amended at 43 Ill. Reg. 4145, effective March 19, 2019)

## SUBPART F: VEHICLE SERVICE PROVIDERS

**Section 515.827 Ambulance Assistance Vehicle Provider Upgrades**

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- a) *An ambulance assistance vehicle provider may submit a written proposal to the EMS Medical Director requesting approval of an ambulance assistance vehicle provider in-field service level upgrade. (Section 3.88(b) of the Act)*
- b) *An ambulance assistance vehicle provider may be upgraded, as defined by the EMS Medical Director in a written policy or procedure, as long as the EMS Medical Director and the Department have approved the proposal, to the highest level of EMT license (advanced life support/paramedic, intermediate life support, or basic life support) or Pre-Hospital RN certification held by any person staffing that provider's ambulance assistance vehicle. The ambulance assistance vehicle provider's proposal for an upgrade must include all of the following (Section 3.88(b-1) of the Act):*
- 1) *The manner in which the provider will secure and store all advanced life support equipment, supplies, and medications. (Section 3.88(b-1)(A) of the Act)*
  - 2) *The type of quality assurance the provider will perform. (Section 3.88(b-1)(B) of the Act)*
  - 3) *An assurance that the provider will advertise only the level of care that can be provided 24 hours a day. (Section 3.88(b-1)(C) of the Act)*
  - 4) *A statement that the provider will have that vehicle inspected by the Department annually. (Section 3.88(b-1)(D) of the Act)*
- c) *If an ambulance assistance vehicle provider is approved to provide an in-field service level upgrade based on the licensed personnel on the vehicle, all the advanced life support medical supplies, durable medical equipment, and medications must be environmentally controlled, secured, and locked with access by only the personnel who have been authorized by the EMS Medical Director to utilize those supplies. (Section 3.88(b-2) of the Act)*
- d) *The EMS System shall routinely perform quality assurance, in compliance with the EMS System's quality assurance plan approved by the Department, on in-field service level upgrades authorized under this Section to ensure compliance with the EMS System plan. (Section 3.88(b-3) of the Act)*

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- e) *The EMS Medical Director may define what constitutes an in-field service level upgrade through a written EMS System policy or procedure. An in-field service level upgrade may include, but need not be limited to, an upgrade to a licensed ambulance, alternate response vehicle, or specialized emergency medical services vehicle. (Section 3.88(b-3) of the Act)*
- f) *If the EMS Medical Director approves a written proposal for an ambulance assistance vehicle provider's in-field service level upgrade under this Section, he or she shall submit the proposal to the Department along with a statement of approval signed by him or her. Once the Department has approved the proposal, the ambulance assistance vehicle provider shall be authorized to function at the highest level of EMT license (advanced life support/paramedic, intermediate life support, or basic life support) or Pre-Hospital RN certification held by any person physically staffing the provider's ambulance assistance vehicle. (Section 3.88(c) of the Act)*
- g) *Nothing in this Section shall allow for the approval of a request to downgrade the service level licensure for an ambulance assistance vehicle provider. (Section 3.88(d) of the Act)*
- h) *The Department will approve or deny the request based on the Department's review and determination of the provider's ability to comply with all requirements outlined in this Part. Any application found deficient or incomplete will be returned to the EMS System with a request for additional information, modification or clarification.*

(Source: Added at 43 Ill. Reg. 4145, effective March 19, 2019)

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Definitions
- 2) Code Citation: 11 Ill. Adm. Code 210
- 3) Section Number: 210.10                      Adopted Action:  
Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rule: April 1, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's central office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 23656; December 21, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the letter issued by JCAR? No changes were requested by JCAR.
- 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: Pursuant to Executive Order 2016-13, Part 210 was identified for modifications during the Board's extensive review of its regulations. The proposed rule eliminates definitions that are defined in the Illinois Horse Racing Act, outdated, unnecessary, or duplicative. A number of housekeeping changes were also made in Part 210, which was originally adopted in 1994.
- 16) Information and questions regarding this adopted rule shall be directed to:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph, Suite 5-700  
Chicago IL 60601

312/814-5017  
Mickey.ezzo@illinois.gov

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

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER a: GENERAL RULES

PART 210  
DEFINITIONS

Section  
210.10 Definitions

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5].

SOURCE: Adopted at 18 Ill. Reg. 2072, effective January 21, 1994; amended at 18 Ill. Reg. 17732, effective November 28, 1994; amended at 19 Ill. Reg. 13891, effective October 1, 1995; amended at 25 Ill. Reg. 15590, effective December 1, 2001; amended at 29 Ill. Reg. 8388, effective June 1, 2005; amended at 43 Ill. Reg. 4176, effective April 1, 2019.

**Section 210.10 Definitions**

"Act" – The Illinois Horse Racing Act of 1975.

~~"Added Money" – The money added by a racing association to the various fees paid by the owners of the horses nominated to, entered in and/or starting in a race.~~

~~"Added Money Early Closing Event" – A harness race closing in the same year in which it is to be contested in which all entrance and declaration fees received are added to the purse.~~

~~"Advanced Wagering" – Any wagering on a race or races to be conducted during a racing program before the next scheduled race.~~

"Age" – The age of a horse shall be recognized~~reckoned~~ from the first day of January of the year of foaling.

~~"Allowance" – Weights and other conditions of a race.~~

"Allowance Race" – A race, other than a claiming race, for which certain weights

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and other conditions of eligibility are established.

"Also Eligible" – A horse that has been entered in a race but is not permitted to start unless the number of entrants is reduced by scratches.

"Appeal" – A request for the Board to investigate, consider or review any decisions or rulings of the officials of a meeting or the decision of the Board itself.

"Applicant" – A person who applies for an organization or occupation license in a specified category or categories.

~~"Approximate odds" – The probable ratio of the pay-out price to a \$1 wager in the win pool in a pari-mutuel system.~~

~~"Arrears" – All monies owed by a licensee, including subscriptions, jockey fees, forfeitures, and any default incident to these rules.~~

~~"Association" – A person or business entity holding a license from the Board to conduct racing with pari-mutuel wagering.~~

~~"Association Grounds" – All areas used by a racing association in conducting a race meeting.~~

"Authorized Agent" – A person appointed by an owner or trainer in accordance with Board rules; ~~The~~ the appointment to be ~~made~~ designated in a document signed by the owner or trainer, approved by the ~~Stewards~~ stewards, executed annually and filed with the ~~Illinois Racing~~ Board.

"Battery" – Any battery, buzzer, electrical, or mechanical device or other appliance, except for the ordinary whip, that can be used to stimulate or depress a horse or affect its speed in a race or workout.

"Beneficial Interest" – Profit, benefit or advantage resulting from a contract or an ownership interest in an estate as distinct from legal title or ownership, i.e., an interest as a devisee, legatee or donee solely for his or her own use or benefit and not as holder of title for use and benefit of another.

"Betting interest" – Horse, entry or field.

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"Bleeder" – A horse that is examined by ~~a licensed~~~~an official~~ veterinarian following a race or workout and sheds blood from one or both nostrils or upon endoscopic examination shows observable amounts of free blood in the respiratory tract.

~~"Board" – Illinois Racing Board.~~

~~"Bookmaker" – A person who accepts wagers on races other than through a pari-mutuel machine.~~

~~"Breakage" – The odd cents by which the amount payable on each dollar wagered exceeds a multiple of 10¢.~~

"Breeder" – (~~Standardbred~~~~Harness~~) The owner of a horse's dam at the time of breeding. (Thoroughbred) The owner of the horse's dam at the time of foaling.

~~"Canceled Ticket" – A ticket that represents a wager that has been canceled and withdrawn from the pari-mutuel pools.~~

"Carryover" – The total amount of non-distributed pool money in a pool that is retained and added to a corresponding pool in accordance with this Part.

~~"Cashed Ticket" – Any pari-mutuel ticket that is refunded or that is presented for payment of a winning wager and is paid.~~

~~"Cashier Accounting" – The record of teller activity by transaction and time of transaction.~~

~~"Central Processing Unit" – The main computer that controls and stores both programs and data.~~

~~"Civil Penalty" – A penalty imposed on a licensee for a violation of Board rules or the Act.~~

~~"Claim" – The act of an eligible owner requesting the stewards to order the sale of a horse in a claiming race to him/her for a predetermined amount; to request a weight allowance; to file a claim in a claiming race; to acquire a horse by claiming.~~

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~~"Claimant"—A person or racing interest meeting one of the three criteria for claiming eligibility.~~

~~"Claim Form"—The form upon which an eligible owner agrees to purchase a horse from a claiming race.~~

~~"Claiming Price"—The predetermined price at which a horse in a claiming race must be sold if it is claimed.~~

~~"Claiming Race"—A race in which any horse starting may be purchased for a predetermined amount in conformance with Board rules.~~

~~"Colt"—An uncastrated male horse under five years of age.~~

~~"Computer Log Library"—A record of all operator initiated actions of the transaction processor.~~

~~"Concessionaire"—An individual, firm, partnership, corporation, trustee or legal representative licensed to operate as a concessionaire to sell or provide food, beverages, programs, tip sheets or parking to the public at a race track in Illinois.~~

"Condition Book" – A booklet published by a thoroughbred racing association that sets out the conditions, purses and descriptions of future races. ~~(Synonym: Condition Sheet)~~

~~"Conditioned Race"—An overnight event in which entry eligibility is governed by previously specified qualifications.~~

"Condition Sheet" – A listing, written by a standardbred racing association~~the Racing Secretary~~, with the conditions a horse must meet in order to enter a particular race.

~~"Conditions"—Qualifications that determine a horse's eligibility to be entered in a particular race.~~

~~"Confirmed Test"—A second analytical procedure used to identify the presence of a specific drug or metabolite in a urine specimen.~~

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED AMENDMENT

"Console" – The totalizator status monitor that displays current race pool status information.

~~"Contest" – A competitive racing event on which pari-mutuel wagering is conducted.~~

~~"Contestant" – An individual participant in a contest.~~

"Controlled Substance" – Any substance listed in 21 USC 812.

"Coupled Entry" – Two or more ~~horses~~~~contestants~~ in a ~~race~~~~contest~~ that are treated as a single betting interest for pari-mutuel wagering purposes. (Also see Synonymous with "Entry")

~~"Dam" – The female parent.~~

~~"Day" – A 24 hour period beginning at 12:01 a.m. and ending at 12:00 midnight.~~

"Dead Heat" – A race in which two or more horses cross the finish line in a tie.

"Declaration" – (StandardbredHarness) The process of entering a horse in a particular race. (Thoroughbred) The withdrawal of a horse entered for a race after the closing of entries. (~~Synonym: scratch~~)

~~"Decoder" – A device and/or means to convert encrypted audio-visual signals and/or data into a form recognizable as the original content of the signals.~~

~~"Disqualification" – The act of barring a person from acting as an official or from starting or driving a horse in a race. In the case of a horse, the act of barring it from starting or altering its finishing position for betting and purse purposes.~~

~~"Disqualify" – To place a horse in a lower position, in the official order of finish in a race, than it actually finished due to an infraction of the rules.~~

~~"Downlink" – A receiving antenna coupled with an audio-visual signal receiver compatible with and capable of receiving simultaneous audio-visual signals and/or data emanating from an organization licensee or track outside Illinois, and includes the electronic transfer of received signals from the receiving antenna to TV monitors within the inter-track wagering facility.~~

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~~"Early Closing Race"—A harness race in which entries close at least six weeks preceding the race.~~

~~"Eligible to Race"—Refers to a horse whose trainer has been granted stall space on association grounds or has been approved to stable elsewhere and to ship in to race at a specific race meeting.~~

~~"Encryption"—The scrambling or other manipulations of the audio-visual signals to mask the original video content of the signal and so cause those signals to be indecipherable and unrecognizable to any person receiving that signal without a decoder.~~

"Entry" – A horse made eligible to participate in a race or two or more horses entered in the same race when owned or trained by the same person or trained in the same stable or by the same management. For thoroughbred racing, entries of separate ownership shall be uncoupled.

~~"Equipment"—The items worn by or attached to a horse in a race.~~

"Exclusion" – The act of barring from all or part of the facilities of a license association grounds or the grounds under the jurisdiction of the ~~Illinois~~ Racing Board. Unless specified in the ruling, an exclusion is unconditional and encompasses all facilities of the association grounds.

"Exhibition Race" – A race on which no wagering is permitted.

~~"Expired Ticket"—An outstanding ticket that was not presented for redemption within the required time period for which it was issued.~~

~~"Extended Pari-Mutuel Meeting"—A meeting at which no agricultural fair is in progress, of more than 10 days annually, with pari-mutuel wagering.~~

~~"Field"—All the horses that compete in a race; a number of horses grouped together as an entry for the purpose of pari-mutuel betting.~~

~~"Filly"—(Thoroughbred) A female horse under five years of age. (Harness) A female horse under four years of age.~~

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED AMENDMENT

"Financial Interest" – An interest that could result in directly or indirectly receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a horse or business entity, or as a result of salary, gratuity or other compensation or remuneration from any person. The lessee and lessor of a horse have financial interests.

~~"Finish Line" – A real or imaginary line, perpendicular to the race course, that marks the end of a race. (Synonyms: finish wire, wire)~~

~~"Flat Race" – A race in which horses mounted by jockeys run over a course on which no obstacles are placed.~~

"Foreign Substance" – All substances except those that exist naturally in the untreated horse of normal physiological concentrations or substances, or metabolites thereof that are contained in equine feeds or feed supplements but do not contain any pharmacodynamic and/or chemotherapeutic agents or pharmaceutical aids.

~~"Forfeit" – Money due from a licensee because of error, fault, neglect of duty, breach of contract or a penalty imposed by the stewards or the Board.~~

~~"Foul" – An improper act committed by a jockey or a horse in the running of a race.~~

~~"Foul Claim" or "Claim of Foul" – An objection, alleging a foul, made to the stewards or their designee by a driver, jockey, owner or trainer of a horse involved in a race.~~

~~"Furosemide List" – A tabulation maintained by the Board of all horses approved to race with furosemide.~~

~~"Futurity" – (Harness) A stakes race in which the dam of the competing animal is nominated either when in foal or during the year of foaling. (Thoroughbred) A stakes race, for horses not older than three years of age, in which nominations are made before the horse becomes a three-year-old.~~

~~"Gelding" – A castrated horse.~~

~~"Gender and Number" – Pronouns of one gender include the other and singular~~

## ILLINOIS RACING BOARD

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~~words include the plural and vice versa, unless the context clearly indicates otherwise.~~

~~"Gimmick Race"—A race on which a form of multiple wagering is conducted, such as Daily Double, Quinella, Exacta, Perfecta, Trifecta, etc.~~

~~"Guaranteed Stakes"—A stakes race with a guarantee by the party offering it that the sum paid shall not be less than the amount named (see Stakes Race).~~

~~"Guest Association"—An association that offers licensed pari-mutuel wagering on contests conducted by another association (the host) in either the same or another state.~~

"Handicap" – (~~Standardbred~~Harness) A race in which starting positions are assigned on the basis of past performance so as to equalize the chance of all horses entered. (Thoroughbred) A race in which the weights carried by the entered horses are assigned by the Racing Secretary for the purpose of equalizing each horse's respective chance of winning.

"Handle" – The aggregate dollar amount of all pari-mutuel pools, excluding refundable wagers.

~~"Heat"—One of two or more installments of a race.~~

~~"Horse"—An all encompassing term for any equine of any age, including colt, filly, gelding, ridgeling, mare or stallion.~~

~~"Host Association"—The association conducting a licensed pari-mutuel meeting from which authorized contests or entire programs are simulcast.~~

~~"Hypodermic Injection"—Any injection into or under the skin or mucosa, including but not limited to intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection, intravenous injection, intra-arterial injection, intra-articular injection, intrabursal injection, intraocular (intraconjunctival) injection.~~

~~"Ineligible Horse"—A horse not qualified to participate in a specific race under the rules or conditions of that race.~~

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~~"Ineligible Person"—A person not qualified to participate in a specific racing activity under the rules of that activity.~~

"Illinois-Bred Colt" or "Illinois-Bred Filly" – A horse sired by a stallion owned by an Illinois resident and standing in the State of Illinois for the season in which the mare was bred.

"Illinois Foaled" – A horse dropped (born) in Illinois.

"Illinois Owned" – A horse owned by a resident of Illinois at the time the horse is declared in to start and at the time of the race.

~~"Illinois Racing Board"—Whenever the word "Board" is used, it means the Illinois Racing Board.~~

~~"Initial Screening"—A sensitive screening that determines the presence of drugs and their corresponding families.~~

~~"Interference"—Any act, which by design or otherwise, and regardless of actual contact, hampers or obstructs any competing horse or horses.~~

~~"Intertrack Wagering Facility"—The physical premises, structure and equipment utilized by an intertrack wagering location or intertrack wagering location licensee for the conduct of intertrack wagering or simulcast wagering.~~

"Inquiry" – An investigation or examination, conducted by the Board or Stewards, of into a possible rule violation.

~~"Issued Ticket"—A wager for which the ticket issuing machine produces a hard copy.~~

~~"Jockey"—A rider of a thoroughbred race horse.~~

"Laboratory" – The Board's Illinois Racing Board Laboratory or an independent testing laboratory contracted by the Board.

~~"Late Closing Race"—A race for a fixed amount to which entries close less than six weeks and more than three days before the race is to be contested.~~

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~~"Lessee"—A licensed owner whose interest in a horse is by lease agreement.~~

~~"Licensee"—A person or legal entity that has been issued an occupation license to participate in racing under the jurisdiction of the Board. (Synonym: Occupation Licensee)~~

"Maiden" – (~~Standardbred~~Harness) A horse that has never won a heat or race, at the gait it is entered to start, for which a purse was offered. (Thoroughbred) A horse that has never earned a winner's purse in a flat race at a recognized meeting in any country.

~~"Maiden Race"—A contest restricted to nonwinners.~~

~~"Mare"—(Harness) A female horse four years of age or older. (Thoroughbred) A female horse five years of age or older.~~

~~"Match Race"—A race between two horses under conditions agreed to by their owners.~~

~~"Matinee Race"—A race with no entrance fee and where the prizes, if any, are other than money.~~

~~"Meeting"—The specified period and inclusive dates each year during which an association is authorized to conduct racing by approval of the Board.~~

~~"Minor"—Any person under the age of 18.~~

"Minus Pool" – A minus pool occurs when the amount of money to be distributed on winning wagers is in excess of the amount of money comprising the net pool.

~~"Month"—A calendar month.~~

~~"Mutuel Field"—Two or more horses in a contest that are treated as a single betting interest for pari-mutuel wagering purposes when the total number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.~~

~~"Mutuel Manager"—The racing official designated by the organization licensee to supervise its pari-mutuel department.~~

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"Net Pool" – The amount of gross ~~wager~~ticket sales less refundable wagers, purses, pari-mutuel taxes, surcharges, and statutory commissions.

"Nominator" – The person or entity in whose name a horse is nominated for a race or series of races.

~~"Nominee" – A horse nominated to a stakes and/or handicap race.~~

"Nomination" – The naming of a horse to a stakes and/or handicap race. In a futurity, the naming of a foal in utero to a certain race or series of races, eligibility to which is conditioned on the payment of a fee at the time of naming and the payment of subsequent sustaining fees and/or starting fees.

"Objection" – A claim of foul lodged with the ~~Stewards~~stewards or their designee by a jockey of a horse in a race immediately after a race and before the race is made official, or a claim of foul lodged with the patrol judge in a starting car, by a driver of a horse in a race, immediately after the race and before the driver dismounts. (Synonymous with "Foul Claim" or "Claim of Foul")

~~"Odds Board" – A large sign board structure, located in the infield of a race track, upon which the approximate odds are prominently displayed. (Synonym: Tote Board)~~

~~"Off Bell" – The bell, operated by the stewards, that signals the locking of ticket-issuing machines. The bell that rings as a race starts.~~

"Official Order of Finish" – The order of finish of the horses in a race~~contest~~ as declared official by the Stewardsstewards.

~~"Official Starter" – The official responsible for dispatching horses to begin a race.~~

"Official Time" – The elapsed time from the moment the first horse crosses the starting point until the first horse crosses the finish line.

~~"Official Veterinarian" – A veterinarian employed by the Board or employed by an organization licensee and approved by the Board.~~

~~"Off Time" – The moment at which, on the signal of the official starter, the doors~~

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~~of the starting gate are opened, officially dispatching the horses in each contest.~~

~~"Off Track Stabling"—Any farm, any Illinois race track not licensed by the Board in the current calendar year, or any other location designated and approved for the purpose of stabling horses to be raced at a race track under the jurisdiction of the Board.~~

~~"Organization Licensee"—Any person or entity receiving an organization license from the Board to conduct a race meeting or meetings.~~

"Outstanding Ticket" – An uncashed winning or refundable pari-mutuel ticket that was not redeemed during the performance for which it was issued and that must be cashed within the statutory time limit.

"Overnight Event" – A ~~racecontest~~ for which entries close at a time set by the racing secretary. (~~Synonymous with~~Synonym: Overnight Race ~~or;~~ Overnight)

"Owner" – A person ~~or stable~~ that has property rights in a horse ~~or horses~~, by ownership, beneficial interest or lease of a horse ~~or horses~~.

"Paddock" – An enclosed area in which ~~standardbredharness~~ horses scheduled to compete in a ~~racecontest~~ are confined and thoroughbred horses are saddled prior to racing.

~~"Pari Mutuel Auditor"—An employee of the Board's Pari Mutuel Audit Unit.~~

~~"Pari Mutuel Audit Unit"—The State Director of Mutuels and the Pari Mutuel Auditors.~~

~~"Pari Mutuel System"—The manual, electro-mechanical, or computerized system and all software (including the totalizator, account betting system and off-site betting equipment) that is used to record wagers and transmit wagering data.~~

~~"Patron"—A member of the public present on the grounds of a pari-mutuel association during a meeting for the purpose of wagering or to observe racing.~~

"~~Payout~~Payoff" – The amount of money payable on winning wagers. (Synonymous with "Payoff")

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~~"Person" — Any individual, partnership, corporation or other association or entity.~~

~~"Pharmaceutical Aids" — Polyethylene glycol, polyoxyethylene glycol, polyalkylene glycol, polyoxyalkylene glycol, polysorbates, sorbitans and their analogues and derivatives.~~

~~"Pool" — Total amount of money wagered on all horses in a race to finish in a specific position or positions.~~

"Post" – The place on a race course from which the horses start in a race.

"Post Position" – The pre-assigned positions from which the horses leave the starting gate.

"Post Time" – The scheduled starting time of a racecontest.

"Prescription Drugs" – Any chemical substance that is prohibited from being dispensed by any federal or Illinois law without a valid prescription.

"Prima Facie Evidence" – Evidence that, until its effect is overcome by other evidence, will suffice as proof of the fact in issue.

"Profit" – The net pool after deduction of the amount wagered on the winners.

"Profit Split" – A division of profit among separate winning betting interests or winning betting combinations resulting in two or more payoutpayoff prices.

"Program" – The published listing of all racecontests and horsescontestants for a specific day's racing. The races of a particular day, considered together.

"Protest" – An objection lodged with the Stewardsstewards of any infringement of the rules of racing.

"Purse" – The amount of money won by the owner of any horsecompetitor in a race.

~~"Purse Race" — A race for money to which the owners of the competing horses do not contribute.~~

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED AMENDMENT

"Qualifying Race" – A race for the purpose of viewing horses for speed, racing manners and competitiveness in which no purse money is offered and on which no pari-mutuel wagering is conducted.

~~"Quarter Horse" – A horse registered with the American Quarter Horse Association of Amarillo, Texas.~~

"Race" – A contest between horses at a licensed meeting for purse, stakes, prize or reward. (Synonymous with "Contest")

~~"Race Course" – The actual racing surface.~~

~~"Race on the Flat" – (see Flat Race)~~

~~"Race Track Enclosure" – Association grounds, owned, leased or controlled by the racing association, whether or not enclosed by a fence and including, but not limited to, track parking lots.~~

~~"Race Track Operator" – Any person, association or corporation licensed by the Illinois Racing Board to conduct horse racing within Illinois for any stake, purse or reward.~~

~~"Race Meeting" – The period of time, whether for consecutive or nonconsecutive dates, for which an organization license has been issued.~~

~~"Racing Association" – Any person, partnership, corporation, or other entity licensed by the Board to conduct a race meeting. (Synonyms: Organization Licensee or Race Track Operator)~~

~~"Racing Interest" – Any individual owner, partnership of owners, or corporation that participates as an owning entity or nominator of a race horse.~~

~~"Racing Jurisdiction" – A governmental regulatory body that, by statute or ordinance, regulates pari-mutuel racing.~~

~~"Racing Soundness Exam" – The physical examination for racing soundness and health of each horse by an official veterinarian.~~

~~"Recognized Meeting" – Any race meeting with regularly scheduled races~~

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~~licensed by and conducted under rules promulgated by a governmental regulatory body, including meetings in foreign countries.~~

~~"Record"—The fastest time made by a horse in a race that horse won or in a performance against time.~~

~~"Refunded Ticket"—A ticket that has been refunded for the value of a wager that is no longer valid (e.g., when a horse has been scratched or the wagering canceled).~~

"Restricted Area" – An area on the ~~facilities~~grounds of a race track where admission can be obtained only upon presentation of valid Board credentials. ~~Restricted~~Such areas shall include, ~~but are not limited to,~~ the stable areas, detention barn, jockey or driver room, paddock, race course, Stewards' stand, and pari-mutuel department.

"Result" – That part of the official order of finish used to determine the pari-mutuel ~~payout~~payoff pools for each individual ~~race~~contest.

"Retention" – The total amount of money, excluding breakage, withheld from each pari-mutuel pool, as authorized by statute or rule. (Synonymous with "Takeout")

~~"Ruled Off"—Synonymous with suspended or excluded.~~

~~"Rules"—Regulations promulgated by the Board pursuant to the Horse Racing Act.~~

~~"Ruling"—A written decision, determination, and/or order of the stewards.~~

~~"Satellite Transponder"—A leased space segment of time of an earth-orbit communication satellite.~~

"Scoring" – Preliminary warm-ups by horses.

"Scratch" – The withdrawal of a horse from a race after the closing of entries.

"Scratch Time" – The time designated by the organization licensee~~racing association~~ as a deadline for an owner or trainer to file a request for a scratch.

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~~"Simulcast"—The live audio and visual transmission of a contest to another location for pari-mutuel wagering purposes.~~

"Single Price Pool" – An equal distribution of profit to winning betting interests or winning betting combinations through a single payout~~payoff~~ price.

"Stable Name" – The assumed name registered with the Board~~or nom-de-course~~ under which a person or stable races horses.

~~"Stakes"—All the fees paid by subscribers to a stakes race, which may include the nomination, eligibility, supplemental, entry or starting fees or any fee that is required by the conditions of a race.~~

"Stakes Race" – A race that is closed to nominees more than 72 hours before it is run, with a purse that includes all stakes payments in addition to the money added by the organization license~~eracing association~~.

~~"Starter"—The racing official whose duty it is to get the horses away to a fair start in a race.~~ Any horse that participates, i.e., starts, in a race.

~~"Starter Race"—An overnight event, under allowance or handicap conditions, restricted to horses who have previously started for the designated claiming price or less, as stated in the conditions of the race.~~

~~"State Director of Mutuels"—The individual representing the Board in the supervision and verification of the pari-mutuel wagering pool totals for each racing day.~~

"State Veterinarian" – A veterinarian employed by the Board.

~~"Steeplechase Race"—A contest in which horses mounted by jockeys run over a course on which jumps or other obstacles are placed.~~

~~"Steward"—Duly appointed top official at a race track with the power to fine, suspend, and rule off persons licensed in racing.~~

~~"Stewards' Stand"—The room, generally located on the roof of a race track grandstand or clubhouse, from which the State stewards and association stewards~~

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~~observe the running of races.~~

~~"Subscription"—The nomination or entry of a horse in a stakes race.~~

~~"Sulky"—A dual shaft, dual wheel racing vehicle.~~

~~"Suspension"—A penalty in which the rights and privileges of a licensee are withdrawn for a specified period of time. An occupation licensee whose license is suspended is prohibited from engaging in any licensed occupation and is excluded from all grounds under the jurisdiction of the Board, unless otherwise specified in the ruling or order (example: suspended from riding or driving).~~

~~"Sweepstakes"—A race where the owners of horses entered or engaged for the race contribute to a purse to which money or any other prize may be added, and nominations to which close 72 hours or more before starting.~~

~~"Takeout"—The total amount of money, excluding breakage, withheld from each pari mutuel pool, as authorized by statute or rule.~~

~~"Test Level"—The concentration of a foreign substance found in a test sample.~~

~~"Test Sample"—Any substance, including but not limited to, blood or urine taken from a horse or licensee for the purpose of testing for foreign or controlled substances.~~

~~"Threshold Level"—The concentration of a foreign substance found in a test sample.~~

~~"Ticket Issuing Machine"—A machine that prints hard copies of wagers.~~

~~"Totalizator"—An electronic device that automatically registers the wagers made on each horse or pool and prints or issues a ticket representing each wager or wagers.~~

"Totalizator System" – A computerized system that is used to record wagers, transmit wagering data, and calculate payouts.

"Totalizator System Licensee" – Any person, corporation, company, association or any other entity that sells, leases, or operates any portion of a totalizator

## ILLINOIS RACING BOARD

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~~system equipment~~ and is licensed by the Board.

~~"Tote Room"—The room at a race track in which the totalizator system's computer is housed.~~

~~"Tout"—Someone who furnishes information concerning selection of a horse for wagering purposes, or predicts the outcome of a race for wagering purposes, in exchange for a consideration.~~

~~"Trial Race"—Part of a series of contests in which horses participate for the purpose of determining eligibility for a subsequent contest.~~

~~"Uplink"—An earth station broadcasting facility, whether mobile or fixed, that is used to transmit audio-visual signals and/or data on FCC-controlled frequencies, and includes any electronic transfer of audio-visual signals from within a racing enclosure to the location of the transmitter at the uplink.~~

~~"Utilities"—Programs that are provided by computer vendors to perform tasks such as duplication of program tapes, modification of master files, and access to passwords.~~

~~"Validation"—The act or process by which the Board's licensing office at a race meeting stamps or otherwise marks the licensee's identification card, thereby allowing the licensee access to restricted areas during a specific race meeting.~~

"Vendor" – A seller of feed, medication, stable supplies, or other merchandise in restricted areas.

"Veterinarian" – A veterinary practitioner licensed ~~as such~~ by the Illinois Department of Financial and Professional Regulation ~~and the Board~~.

~~"Veterinarian's List"—A tabulation maintained by the State Veterinarian of horses that are not permitted to enter a race until their names are removed from the list.~~

~~"Walkover"—An event in which all horses but one in a race are withdrawn, leaving that horse to walk the prescribed course at the distance of the race. A walkover may be between two or more horses if they belong to a single interest.~~

~~"Week"—A calendar week.~~

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"Weigh-In" – The presentation of a jockey to the Clerk of Scales for weighing after a race.

"Weigh-Out" – The presentation of a jockey to the Clerk of Scales for weighing prior to a race.

"Weight for Age" – A race in which a fixed scale is used to assign the weight to be carried by individual horses according to age, sex, distance of the race, and season of the year.

"Winner" – The horse whose nose reaches the finish line first or is placed first through disqualification. If there is a dead heat for first, those horses shall be considered winners.

~~"Wire" – See Finish line.~~

~~"Year" – A calendar year.~~

(Source: Amended at 43 Ill. Reg. 4176, effective April 1, 2019)

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Race Track Surfaces
- 2) Code Citation: 11 Ill. Adm. Code 411
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
411.10	Repealed
411.20	Repealed
411.30	Repealed
411.40	Repealed
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Repealer: April 1, 2019
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Agency's central office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 23703; December 21, 2018
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between Proposal and Final Version: No changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the letter issued by JCAR? No changes were requested by JCAR.
- 13) Will this repealer replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: Pursuant to Executive Order 2016-13, the Board is repealing outdated Parts under the "Cutting the Red Tape Initiative." Part 411, adopted in 1981, was identified for repeal as unnecessary during the Board's extensive review of its

ILLINOIS RACING BOARD

NOTICE OF ADOPTED REPEALER

regulations. The Board has the necessary authority under the Illinois Horse Racing Act of 1975.

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

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph, Suite 5-700  
Chicago IL 60601

312/814-5017  
Mickey.ezzo@illinois.gov

## ILLINOIS RACING BOARD

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Horsemen's Bookkeeping System Licensees
- 2) Code Citation: 11 Ill. Adm. Code 450
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
450.10	Repealed
450.20	Repealed
450.30	Repealed
450.40	Repealed
450.50	Repealed
450.60	Repealed
450.70	Repealed
450.80	Repealed
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Repealer: April 1, 2019
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Agency's central office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 23711; December 21, 2018
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between Proposal and Final Version: No changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the letter issued by JCAR? No changes were requested by JCAR.
- 13) Will this repealer replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

ILLINOIS RACING BOARD

NOTICE OF ADOPTED REPEALER

- 15) Summary and Purpose of Repealer: Pursuant to Executive Order 2016-13, the IRB is amending and repealing sections under the "Cutting the Red Tape Initiative" to make certain that regulatory standards are not unduly burdensome to licensees.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph, Suite 5-700  
Chicago IL 60601

312/814-5017  
Mickey.ezzo@illinois.gov

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
130.120	Amendment
130.321	Amendment
130.350	Amendment
130.351	Amendment
- 4) Statutory Authority: 35 ILCS 120/12; 20 ILCS 2505/2505-795
- 5) Effective Date of Rules: March 20, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 18780; October 19, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Only grammatical and technical changes were made. No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u><i>Illinois Register</i> Citations:</u>
130.320	Amendment	42 Ill. Reg. 8404; May 25, 2018

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130.330	Amendment	42 Ill. Reg. 8404; May 25, 2018
130.501	Amendment	42 Ill. Reg. 8404; May 25, 2018
130.701	Amendment	42 Ill. Reg. 8404; May 25, 2018
130.801	Amendment	43 Ill. Reg. 1251; January 18, 2019
130.901	Amendment	43 Ill. Reg. 1251; January 18, 2019

- 15) Summary and Purpose of Rulemaking: 130.120, Nontaxable Transactions, to extend the exemption for coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment until July 1, 2023, pursuant to PA 100-594 (see 86 Ill. Adm. Code 130.120(cc)) and to clarify that the exemption for fuel and petroleum products used or consumed on international flights existed prior to the enactment of Section 2-70 of the Retailers' Occupation Tax Act and will not sunset;

130.321, Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its possessions, to clarify that the exemption for fuel and petroleum products used or consumed on international flights existed prior to the enactment of Section 2-70 of the Retailers' Occupation Tax Act and will not sunset;

130.350, Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment, to extend the exemption for this type of equipment until July 1, 2023, pursuant to PA 100-594; and

130.351, Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment, to extend the exemption for this type of equipment until July 1, 2023, pursuant to PA 100-594.

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

Debra Boggess  
Associate Counsel  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson  
Springfield IL 62794

217/782-2844

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

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

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 130  
RETAILERS' OCCUPATION TAX

## SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

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130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

## SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Soft Drinks and Candy
130.311	Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its Possessions
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment

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130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines
130.335	Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices
130.340	Rolling Stock
130.341	Commercial Distribution Fee Sales Tax Exemption
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
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## SUBPART D: GROSS RECEIPTS

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130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges – Penalties – Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

## SUBPART E: RETURNS

## Section

130.501	Monthly Tax Returns – When Due – Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration – Separate

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	Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
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## SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments (Repealed)
130.605	Sales of Property Originating in Illinois; Questions of Interstate Commerce
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Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
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130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records

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- 130.820 Preservation of Books During Pendency of Assessment Proceedings  
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

## SUBPART I: PENALTIES AND INTEREST

- Section  
130.901 Civil Penalties  
130.905 Interest  
130.910 Criminal Penalties

## SUBPART J: BINDING OPINIONS

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130.1001 When Opinions from the Department are Binding

## SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

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130.1101 Definition of Federal Area  
130.1105 When Deliveries on Federal Areas Are Taxable  
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

## SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

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## SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

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130.1301 When Lessee of Premises Must File Return for Leased Department  
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## SUBPART N: SALES FOR RESALE

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Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON  
SELLING OUT OR DISCONTINUING BUSINESS

Section

- 130.1601 When Returns are Required After a Business is Discontinued
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- 130.1610 Cross Reference to Bulk Sales Regulation

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Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

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- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
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SUBPART S: SPECIFIC APPLICATIONS

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- 130.1901 Addition Agents to Plating Baths
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- 130.1935 Computer Software
- 130.1940 Construction Contractors and Real Estate Developers
- 130.1945 Co-operative Associations
- 130.1946 Tangible Personal Property Used or Consumed in Graphic Arts Production within Enterprise Zones Located in a County of more than 4,000 Persons and less than 45,000 Persons
- 130.1947 Tangible Personal Property Used or Consumed in the Process of Manufacturing and Assembly within Enterprise Zones or by High Impact Businesses
- 130.1948 Tangible Personal Property Used or Consumed in the Operation of Pollution Control Facilities Located within Enterprises Zones
- 130.1949 Sales of Building Materials Incorporated into the South Suburban Airport
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- 130.1951 Sales of Building Materials Incorporated into Real Estate within Enterprise Zones
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- 130.1955 Farm Chemicals
- 130.1956 Dentists
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
- 130.1970 Hatcheries
- 130.1971 Sellers of Pets and the Like
- 130.1975 Operators of Games of Chance and Their Suppliers
- 130.1980 Optometrists and Opticians
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- 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
- 130.2004 Sales to Nonprofit Arts or Cultural Organizations
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- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
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- 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
- 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property – Tax Liabilities, Credit
- 130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property
- 130.2020 Physicians and Surgeons
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- 130.2050 Sales and Gifts By Employers to Employees
- 130.2055 Sales by Governmental Bodies
- 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
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- 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
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- 130.2125 Discount Coupons, Gift Situations, Trading Stamps, Automobile Rebates and Dealer Incentives
- 130.2130 Undertakers and Funeral Directors
- 130.2135 Vending Machines
- 130.2140 Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
- 130.2145 Vendors of Meals
- 130.2150 Vendors of Memorial Stones and Monuments
- 130.2155 Tax Liability of Sign Vendors
- 130.2156 Vendors of Steam
- 130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
- 130.2165 Veterinarians
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- 130.2500 Direct Payment Program
- 130.2505 Qualifying Transactions, Non-transferability of Permit
- 130.2510 Permit Holder's Payment of Tax
- 130.2515 Application for Permit
- 130.2520 Qualification Process and Requirements
- 130.2525 Application Review
- 130.2530 Recordkeeping Requirements
- 130.2535 Revocation and Withdrawal
- 130.ILLUSTRATION A Examples of Tax Exemption Cards
- 130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration
- 130.ILLUSTRATION C Food Flow Chart

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

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SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874,

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effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421, effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38

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Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12, 2015; amended at 39 Ill. Reg. 12597, effective August 26, 2015; amended at 39 Ill. Reg. 14616, effective October 22, 2015; amended at 40 Ill. Reg. 6130, effective April 1, 2016; amended at 40 Ill. Reg. 13448, effective September 9, 2016; amended at 41 Ill. Reg. 10721, effective August 1, 2017; amended at 42 Ill. Reg. 2850, effective January 26, 2018; amended at 43 Ill. Reg. 4201, effective March 20, 2019.

## SUBPART A: NATURE OF TAX

**Section 130.120 Nontaxable Transactions**

The tax does not apply to receipts from sales:

- a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- b) of real property, such as lands and buildings that are permanently attached to the land. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives the number to the vendor in connection with certifying to the vendor that the sale to the purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- e) that are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;

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- f) that are isolated or occasional (see Section 130.110 of this Subpart). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- g) of newspapers and magazines (see Section 130.2105 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- h) that are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- i) that are made to any governmental body (see Section 130.2080 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- j) of low sulfur dioxide emission coal-fueled devices. This exemption existed prior to the enactment of Section 2-70 and will not sunset [35 ILCS 120/1a-1] (see Section 130.355 of this Part);
- k) *of fuel consumed or used in the operation of ships, barges or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon that bordering river* [35 ILCS 120/2-5(24)] (see Section 130.315 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- m) except as otherwise provided in Section 130.605(b)(1)(C), of a motor vehicle in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of

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the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state (see Section 130.605). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

- n) until December 31, 2001, of merchandise in bulk when sold from a vending machine for 1¢; on and after January 1, 2002, of merchandise in bulk when sold from a vending machine for 50¢ or less (see 35 ILCS 120/1 and Section 130.2135 of this Part). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act. This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- p) of farm chemicals (see Section 130.1955 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part. This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and that are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges that are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts. This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- s) *of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser* [35 ILCS 120/2-5(16)].
  - 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not

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relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.

- 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District. This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- t) *of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease [35 ILCS 120/2-5(2)] (see Section 130.305). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- u) *through June 30, 2003, and beginning again on September 1, 2004 through August 30, 2014, of graphic arts machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(4)] (see Section 130.325);*
- v) *through August 31, 2007, and beginning again on January 11, 2008:*
  - 1) *any motor vehicle of the first division that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act; or*
  - 2) *a motor vehicle of the second division that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act, and which:*
    - A) *is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat;*

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- B) *is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code; or*
- C) *beginning on January 1, 2014, has a Gross Vehicle Weight Rating, as defined in Section 1-124.5 of the Illinois Vehicle Code, of 8,000 pounds or less [35 ILCS 120/2-5(5)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- w) *of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006). This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- x) *of personal property sold to an Illinois county fair association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- y) *of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed in this subsection (y) must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations [35 ILCS 120/2-5(9)] (see Section 130.2004 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;*
- z) *of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise [35 ILCS 120/2-5(10)] (see Section 130.2008). This exemption existed prior to the enactment of Section 2-70 and will not sunset;*

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- aa) *of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion* [35 ILCS 120/2-5(18)], unless the items are transferred as jewelry and therefore subject to tax. This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- bb) *of photoprocessing machinery and equipment, including repair and replacement parts* [35 ILCS 120/2-5(20)] (see Section 130.2000). This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- cc) beginning July 1, 2003, *of coal and aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Motor Vehicle Code. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013.* This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 15, 2018. Effective June 29, 2018, the exemption provided in this subsection (cc) is extended until July 1, 2023 [35 ILCS 120/2-5(21)] (see Sections 130.350 and 130.351);
- dd) ~~until June 30, 2013,~~*of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers. Beginning July 1, 2013, the exemption applies to fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and that transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.* This exemption existed prior to the enactment of Section 2-70 of the Retailers' Occupation Tax Act and will not sunset. This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 15, 2018 [35 ILCS 120/2-5(22)] (~~See~~see Section 130.321.);

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- ee) *of semen used for artificial insemination of livestock for direct agricultural production.* [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit. This exemption existed prior to the enactment of the sunset provisions of Section 2-70 and will not sunset;
- ff) *of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois* [35 ILCS 120/2-5(23)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;
- gg) *of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This exemption applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for taxes paid during the period beginning May 30, 2000 and ending January 1, 2008* [35 ILCS 120/2-5(27)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;
- hh) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act* [35 ILCS 120/2-5(36)] (see Section 130.2011). This exemption is statutorily exempt from the sunset provisions of Section 2-70;
- ii) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of personal property sold to a lessor who leases the property, under a lease*

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*of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(37)] (see Section 130.2012). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*

jj) *of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois [35 ILCS 120/2-5(17)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*

kk) Game Birds

1) beginning July 1, 1999 through August 15, 2011, of game or game birds purchased at:

A) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);

B) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or

C) a hunting enclosure approved through rules adopted by the Department of Natural Resources;

2) beginning August 16, 2011, of *game or game birds sold at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code*. This exemption is statutorily exempt from the sunset provisions of Section 2-70;

ll) *beginning January 1, 2000, of personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists*

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*primarily of volunteers and includes parents and teachers of the school children. This subsection (ll) does not apply to fundraising events:*

- 1) *for the benefit of private home instruction; or*
  - 2) *for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- mm) *of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:*
- 1) *will make an investment in a business enterprise project of \$100,000,000 or more;*
  - 2) *will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and*
  - 3) *is certified by the Department of Commerce and Economic Opportunity as contractually obligated to meet the requirements specified in subsection (mm)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery and equipment for which an exemption is granted by Section 1j of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 1j of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;*

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- nn) *beginning August 23, 2001 and through June 30, 2016, of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or a licensed facility as defined in the ID/DD Community Care Act [210 ILCS 47], the MC/DD Act [210 ILCS 46], or the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]. [35 ILCS 120/2-5(35-5)];*
- oo) *beginning July 1, 2007, of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:*
- 1) *the aircraft leaves this State within 15 days after the later of either the final billing for the sale of the aircraft or the approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*
  - 2) *the aircraft is not based or registered in this State after the sale of the aircraft; and*
  - 3) *the seller retains documents as required by the Department. [35 ILCS 120/2-5(25-7)] (See Section 130.605). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- pp) *effective October 11, 2007, of tangible personal property sold to a public-facilities corporation, as described in 65 ILCS 5/11-65-10, for purposes of constructing or furnishing a municipal convention hall. If, before October 11, 2007, a municipality has incorporated a public-facilities corporation and the public-facilities corporation complies with the requirements set forth in Section 11-65-10, then this exemption applies to that public-facilities corporation. [65 ILCS 5/11-65-10, 15 and 25 and 35 ILCS 120/2-5(41)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*

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- qq) *beginning January 1, 2008, of tangible personal property used in the construction or maintenance of certain community water supplies [35 ILCS 120/2-5(39)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;*
- rr) **Aircraft Maintenance**  
*beginning January 1, 2010, of materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to the sale of qualifying tangible personal property to persons who modify, refurbish, complete, replace, or maintain an aircraft and who:*
- 1) *hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration;*
  - 2) *have a Class IV Rating; and*
  - 3) *conduct operations in accordance with 14 CFR 145 (Federal Aviation Regulations). The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under 14 CFR 121 or 129. This exemption sunset on December 31, 2014 by operation of law pursuant to the sunset provisions of Section 2-70 [35 ILCS 120/2-5(40)];*
- ss) *effective July 12, 2006, of building materials to be incorporated into real estate within a River Edge Redevelopment Zone in accordance with the River Edge Redevelopment Zone Act by remodeling, rehabilitating, or new construction may deduct receipts from those sales when calculating the tax imposed by the Act [35 ILCS 120/2-54] (see Section 130.1954). This exemption is statutorily exempt from the sunset provisions of Section 2-70;*

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- tt) *of electricity delivered to customers by wire; natural or artificial gas that is delivered to customers through pipes, pipelines, or mains; and water that is delivered to customers through pipes, pipelines, or mains. These provisions are declaratory of existing law as to the meaning and scope of the Retailers' Occupation Tax Act [35 ILCS 120/2]. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;*
- uu) *effective on January 1, 2002 through June 30, 2016, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State [35 ILCS 120/2-5(38)] (see 86 Ill. Adm. Code 150.310);*
- vv) *beginning January 1, 2017, of menstrual pads, tampons, and menstrual cups [35 ILCS 120/2-5(42)]. This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 18, 2021.*

(Source: Amended at 43 Ill. Reg. 4201, effective March 20, 2019)

## SUBPART C: CERTAIN STATUTORY EXEMPTIONS

**Section 130.321 Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its Possessions**

- a) *Until June 30, 2013, notwithstanding the fact that sales may be at retail, fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers is exempt from tax. (Section 2-5 of the Act).*
- b) Exemptions Beginning July 1, 2013

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- 1) *Beginning July 1, 2013, notwithstanding the fact that sales may be at retail, tax does not apply to fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that:*
  - A) *is engaged in foreign trade or is engaged in trade between the United States and any of its possessions; and*
  - B) *transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft [35 ILCS 120/2-5].*
- 2) [This exemption existed prior to the enactment of Section 2-70 of the Retailers' Occupation Tax Act and will not sunset. This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Act on August 16, 2018.](#)
- c) Until July 1, 2013, flights destined for a destination outside the United States include flights which originate in Illinois or have a stopover in Illinois and which may have intermediate stops at other locations in the United States prior to arriving at the destination outside the United States. Beginning July 1, 2013, subject to the provisions in subsection (b), all fuel loaded for such flights shall be considered to be exempt, notwithstanding the fact that a portion of the fuel will be consumed within the United States or any of its possessions. If a flight is loaded with exempt fuel for a flight engaged in foreign trade or trade between the United States and any of its possessions, but for some reason does not meet the provisions of subsection (b), the fuel will be taxable.
- d) In general, exempt international fuel shall be treated in the same manner as bonded fuel with respect to the sale, accountability and eligibility of tax exemption.
- e) Aviation fuel used as provided in this Section may be commingled with other jet fuel within the hydrant systems at qualifying airports. However, accurate records must be maintained with respect to the purchaser, gallonage of fuel loaded, flight number, aircraft tail number, ultimate foreign destination and intermediate stops. Beginning July 1, 2013, records must also contain information that indicates that

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the flight was engaged in foreign trade or trade between the United States or any of its possessions and transported at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in flight number of that aircraft.

f) **EXAMPLES:**

Aircraft A, Aircraft B, and Aircraft C are operated by an air common carrier.

- 1) **Situation 1.** A flight originates in the United States and its final destination is outside the United States. Aircraft A fuels up in Chicago, Illinois for a flight bound for Vancouver, Canada. En route to Vancouver, Aircraft A stops in Seattle, Washington. The flight from Chicago to Seattle is designated Flight No. 111 and the flight from Seattle to Vancouver is designated Flight No. 333. Although the flight numbers change, the aircraft does not change. Aircraft A transports at least one person or package for hire from Chicago to Vancouver.

**Determination 1.** Aircraft A is engaged in foreign trade within the meaning of Section 2-5 of the Act. Aircraft A's flight originates within the United States (Chicago) bound for a destination outside the United States (Vancouver), and Aircraft A transports for hire at least one person or package from Chicago to Vancouver. The intermediate stop in Seattle, en route to Vancouver, does not negate the exemption. Thus, the fuel loaded into the aircraft in Chicago is exempt from tax. The change in the flight number does not affect the determination of whether the aircraft is engaged in foreign trade as long as the aircraft remains the same and at least one person or package was transported for hire from Chicago to Vancouver.

- 2) **Situation 2.** A flight originates outside the United States and its final destination is inside the United States. Aircraft B flies from Cancun, Mexico to New York City, New York. En route to New York City, Aircraft B stops in Chicago, Illinois to refuel. The flight from Cancun to Chicago is designated Flight No. 555 and the flight from Chicago to New York City is designated Flight No. 777. Although the flight numbers change, the aircraft does not change. Aircraft B transports at least one person or package for hire from Cancun to New York City.

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Determination 2. Aircraft B is engaged in foreign trade within the meaning of Section 2-5 of the Act. Aircraft B's flight originates outside of the United States (Cancun) bound for a destination within the United States (New York City), and Aircraft B transports for hire at least one person or package from Cancun to New York City. The stop in Chicago is an intermediate stop in the United States, en route to New York City. Thus, the fuel loaded into the aircraft in Chicago is exempt from tax. The change in the flight numbers does not affect the determination of whether the aircraft is engaged in foreign trade as long as the aircraft remains the same and at least one person or package is transported for hire from Cancun to New York City.

- 3) Situation 3. A flight originates within the United States and its final destination is within the United States. Aircraft C fuels up in Chicago, Illinois for a flight destined for Dallas, Texas. Aircraft C transports persons for hire from Chicago to Dallas, some of whom will transfer to Aircraft A for a flight from Dallas to Acapulco, Mexico.

Determination 3. Aircraft C is not engaged in foreign trade or in trade between the United States and any of its possessions within the meaning of Section 2-5 of the Act. Aircraft C did not transport at least one person or package for hire from a city of origination within the United States bound for a city of final destination outside the United States or any of its possessions, even though some of the passengers' final destinations were outside the United States. Aircraft C's flight is only between two cities within the United States (Chicago to Dallas). Thus, the fuel loaded into the aircraft in Chicago is not exempt from tax.

- 4) Situation 4. A flight originates in the United States and its destination is a city in a possession of the United States. Aircraft B fuels up in Chicago, Illinois for a flight to San Juan, Puerto Rico. En route to San Juan, Aircraft B makes a stop in Savannah, Georgia. The flight from Chicago to Savannah is designated Flight No. 1122 and the flight from Savannah to San Juan is designated Flight No. 708. Although the flight number changes, the aircraft does not. Aircraft B transports two persons from Chicago to San Juan on the same plane.

Determination 4. Aircraft B is engaged in foreign trade between the United States and one of its possessions within the meaning of Section 2-5

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of the Act. Aircraft B's flight originates in Chicago bound for San Juan, and Aircraft B transports for hire at least one person or package from Chicago to San Juan. The stop in Savannah is an intermediate stop within the United States during a flight to San Juan. The change in the flight number does not affect the determination of whether the flight is engaged in foreign trade as long as the aircraft remains the same. Thus, the fuel loaded into the aircraft in Chicago is exempt from tax.

(Source: Amended at 43 Ill. Reg. 4201, effective March 20, 2019)

**Section 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment**

- a) General. The exemption provided in this Section terminated on June 30, 2003, pursuant to P.A. 93-24. P.A. 98-456, effective August 16, 2013, reinstated the coal exemption retroactive to July 1, 2003. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013. The exemption for coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 16, 2018. [Pursuant to P.A. 100-0594, effective June 29, 2018, the exemption provided in this Section is extended until July 1, 2023.](#) The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5]. This exemption applies only to equipment used primarily in coal exploration, mining, off highway hauling, processing, maintenance and reclamation. Equipment used 50% or less in exploration, mining, off highway hauling, processing, maintenance and reclamation will not qualify for this exemption. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in coal exploration, mining, off highway hauling, processing, maintenance and reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors and adhesives), coolants, lubricants, inert limestone, magnetite and other materials added to the coal washing medium, reclamation materials (such as seed, plants and limestone), items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

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## b) Definitions

- 1) "Coal" means a mineral deposit or finished product comprised of combustible, carbon based plant fossil matter used as fuel.
- 2) "Coal Exploration" means the search for coal. Exploration includes, but is not limited to, geophysical exploration, excavating and drilling to locate coal deposits.
- 3) "Kits" means commercially-packaged sets of parts that are ordered from a manufacturer, inventoried and sold by a retailer as a single item. An example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.
- 4) "Maintenance" means keeping coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.
- 5) "Mining" means the extraction of coal from the earth by underground and surface mining and includes the extraction of coal by the mine owner or operator.
- 6) "Off Highway Hauling" means carrying or transporting and would include transport of overburden, waste material, including gob from the processing facility for disposal, and coal from the coal seam to the processing facility by conveyors or unlicensed vehicles, and conveying coal from the beginning of the processing cycle through the last stage of coal production, which ends at the time the coal is stored.
- 7) "Processing" means preparation activities performed directly on the coal which are necessary for converting coal into a finished product so that it is ready for sale or the reprocessing of coal mine waste to extract and recycle coal from the waste by the mine owner, operator or a third party contractor or successor. Processing includes, but is not limited to, sizing, crushing, drying and washing.
- 8) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.

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- 9) "Replacement Parts" means parts that are used to replace parts of qualifying equipment and that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of coal exploration, mining, off highway hauling, processing, maintenance or reclamation equipment.
  - 10) "Used primarily" means equipment that is used more than 50% of the time in coal exploration, mining, off highway hauling, processing, maintenance and reclamation.
- c) Exempt Activities
- By way of illustration and not limitation, the following activities will be considered to constitute coal exploration, mining, off highway hauling, processing, maintenance and reclamation:
- 1) Coal is produced in a surface mining operation that begins with locating the coal deposit to be mined, clearing of surface obstacles and overburden from the land above the coal deposit to be mined, continues with the removal of waste material and with the extraction of the coal, continues with the transportation from the coal seam to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material from a subsequently mined area, continues further with the processing of the coal, and ends with the stockpiling of the coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:
    - A) Geophysical surveying, excavating, dredging and drilling machinery and equipment used primarily to locate surface mine coal deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment).
    - B) Equipment used primarily to drill and load holes for blasting material to dislodge the overburden, blasting agents (such as ammonium nitrate and fuel oil or ANFO); equipment used primarily to ignite blasting agents, including, but not limited to,

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high explosives, detonators, lead-in lines and blasting machines; and equipment used primarily to transport the blasting material.

- C) Equipment used primarily to remove overburden and other waste materials from the pit to be mined.
- D) Equipment used primarily to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment (e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage or frequency of the electric current and transmit the electrical current to coal mining and processing equipment).
- E) Pumps and hoses used primarily to remove water or to divert water from the active pit area.
- F) Equipment used primarily to load the overburden, waste material or coal to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.
- G) Equipment used primarily to extract coal from the earth.
- H) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or coal to the processing facility.
- I) Equipment used primarily to backfill, grade, seed, plant or otherwise reclaim previously mined land.
- J) Equipment used primarily in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.330).
- K) Equipment used primarily to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.

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- L) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field (e.g., draglines and shovels that move and load overburden and shovels that load coal in the pit).
  - M) Computers and electrical control panels integral to and used primarily to operate exempt equipment used in coal exploration, mining, off highway hauling, processing, maintenance and reclamation.
  - N) Remote audio visual equipment integral to and used primarily in connection with coal exploration, mining, off highway hauling, processing, maintenance and reclamation.
  - O) Electric generators used primarily to power exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
  - P) Communication equipment integral to and used primarily in production and operation activities in connection with coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
- 2) Coal is produced in an underground mining operation that begins with locating the coal deposit to be mined, continues with the boring of a shaft from the surface to the coal deposit to be mined, continues with the removal of waste material and the extraction of coal, continues further with the transportation from the coal seam to the processing facility, continues further with the installation of roof supports and the coating of walls with rock dust to prevent mine explosions and collapse, continues further with the processing of coal and disposal of waste material from the mine and processing facility, and ends with the stockpiling of coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:
- A) Geophysical surveying, excavating and drilling machinery and equipment used primarily to locate underground mine coal deposits (e.g., data logger transducer; photoionization detector; optical

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televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment).

- B) Equipment used primarily to create access to the coal deposit (e.g., a rotary drill or a track drill), equipment used primarily to sever coal from the deposit (e.g., continuous miners and long wall mining equipment), and equipment used primarily to load coal onto conveyor belts, into trucks or other conveyances used to transport coal from the deposit to the processing operation (e.g., shuttle cars and battery powered haulers).
- C) Shuttle cars used primarily to transport the coal from the point of severance to the feeder-breaker at the end of a conveyor belt or other transportation system.
- D) The feeder-breaker which breaks the large lumps of coal and feeds the coal onto the conveyor belt which carries the coal outside the mine where it is temporarily stockpiled or transported to the processing facility.
- E) Equipment used primarily to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment, e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage or frequency of the electrical current and transmit the electrical current to mining and processing equipment.
- F) Pumps and hoses, piping and discharge apparatus used primarily in the movement or removal of water or to divert water from the underground mine area.
- G) Equipment used primarily to install roof bolts, roof bolt supports and side rib bolt supports and in scaling (e.g., the removal of loose rock and slabs of rock) prior to roof bolting to prevent mine collapse.

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- H) Roof bolts and plates, side rib bolts and plates, and epoxy resin cartridges used primarily to secure roof bolts and side rib bolts installed to prevent mine collapse.
- I) Equipment used primarily to coat mine walls with inert limestone as the coal is removed to prevent explosions caused by the escape of volatile materials.
- J) Equipment installed as improvements to real estate in underground mining such as elevators, rail, ventilating and illuminating systems, including the foundations for that equipment as long as those foundations are located within the underground mine.
- K) Equipment used primarily in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of underground mine structures. Materials, such as lumber, steel, concrete, rock and other building materials, qualify for the exemption only when used in underground mine structures, including use as roof support to prevent mine collapse.
- L) Additions to exempt underground rail conveyors, ventilating and illumination systems due to the progression of mining.
- M) Longwall equipment consisting of shields, shearers, face conveyors and equipment used primarily for recovery, handling and transportation of longwall equipment.
- N) Machinery and equipment used primarily to transport coal to aboveground facilities.
- O) Machinery and equipment used primarily to convey coal from the beginning of the processing cycle through the last stage of coal production.
- P) Equipment used primarily in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.330).

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- Q) Equipment used primarily to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.
  - R) Equipment, other than motor vehicles required to be registered pursuant to the Illinois Vehicle Code, used primarily to transport miners into and out of an underground mine (e.g., mantrips, utility vehicles, mobile equipment and scoops).
  - S) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment at the mine site (e.g., draglines and shovels that move and load overburden and shovels that load coal in the pit).
  - T) Computers and electrical control panels integral to and used primarily to operate exempt equipment used in coal exploration, mining, off highway hauling, processing, maintenance and reclamation.
  - U) Remote audio visual equipment integral to and used primarily in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
  - V) Electrical generators used primarily to power exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
  - W) Communication equipment integral to and used primarily in production and operation activities in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
- 3) By way of illustration and not limitation, the following maintenance equipment is exempt:
- A) Unlicensed maintenance and welding trucks used primarily for field repair of exempt equipment.

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- B) Lathes, drill presses, air compressors and welders used primarily to build, modify or rework exempt repair parts or equipment.
  - C) Mobile and overhead cranes and manlifts used primarily in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation.
- 4) By way of illustration and not limitation, the following coal exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:
- A) Drill rigs used primarily to drill exploration core holes.
  - B) Water trucks used primarily in the drilling process.
  - C) Winch and casing trucks used primarily in the drilling process.
  - D) Field maintenance trucks used primarily to make repairs on exempt field equipment.
  - E) Air compressors used in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation.
- d) Nonexempt Activities
- By way of illustration and not limitation, the following activities will not be considered to constitute coal exploration, mining, off highway hauling, processing, maintenance and reclamation:
- 1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures, such as roof support to prevent mine collapse;
  - 2) the use of equipment in research and development for new uses of coal;

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- 3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production or extraction scheduling, purchasing, receiving, accounting, fiscal management, communications equipment (e.g., radios and phones), security, marketing, product exhibition and promotion, personnel recruitment, selection or training;
  - 4) the use of equipment to prevent or fight fires or other mining hazards, protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, rescue chambers, self-rescuers, protective mine shelters or tracking devices (e.g., Global Positioning Systems or similar devices) even though such equipment and supplies may be required by law;
  - 5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance and reclamation operation;
  - 6) the use of facilities for storing coal after extraction and processing;
  - 7) the use of front-end loaders, cranes, equipment used to load coal onto trucks, railcars or barges for delivery to customers;
  - 8) the use of concrete foundations and support structures for ventilation equipment used aboveground.
- e) Sales to Lessors of Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
- 1) For the exemption to apply, the purchaser need not, himself, employ the equipment in coal exploration, mining, off highway hauling, processing, maintenance and reclamation. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption. A supplier may exclude these sales from taxable gross receipts if the purchaser-lessor provides the supplier with a properly completed certificate and the information contained in the certificate would support an exemption if the sale were made directly to the lessee.

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- 2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the exemption, the purchaser-lessor will become liable for the tax he or she previously did not pay.
- f) **Purchaser Certification**  
Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for coal exploration, mining, off highway hauling, processing, maintenance and reclamation. If a purchaser can claim either the exemption under this Section or the Manufacturing Machinery and Equipment exemption, the purchaser must specify on the certificate which exemption the purchaser is claiming. Manufacturer's Purchase Credit can only be earned on purchases of qualifying Manufacturing Machinery and Equipment (see Sections 130.330 and 130.331). Purchasers claiming the exemption under this Section cannot earn Manufacturer's Purchase Credit. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment that is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualifying uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 43 Ill. Reg. 4201, effective March 20, 2019)

**Section 130.351 Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment**

- a) **General.** The exemption provided in this Section terminated on June 30, 2003, pursuant to P.A. 93-24. P.A. 98-456, effective August 16, 2013, reinstated the aggregate exemption retroactive to July 1, 2003. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013. The exemption for aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 16,

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2018. [Pursuant to P.A. 100-0594, effective June 29, 2018, the exemption provided in this Section is extended until July 1, 2023.](#) Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment used primarily for the exploration and mining of mineral deposits and for the manufacture of resultant aggregate products. The exemption also applies to individual replacement parts for exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment. The exemption also applies to equipment and replacement parts purchased for lease if those items are used primarily in the activities noted in this subsection. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5]. This exemption applies only to equipment used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance and reclamation will not qualify for this exemption. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, and adhesives), coolants, lubricants, reclamation materials (such as seed, plants and limestone), items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

## b) Definitions

- 1) "Aggregate" means any mineral deposit or finished product, including but not limited to sand, gravel, stone, clay, industrial minerals, composites or other mineral solids, except coal.
- 2) "Aggregate Exploration" means the search for aggregate. Exploration includes, but is not limited to, geophysical exploration, excavating, dredging, and drilling to locate aggregate deposits.
- 3) "Kits" means commercially-packaged sets of parts that are ordered from a manufacturer, inventoried and sold by a retailer as a single item. An

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example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.

- 4) "Maintenance" means keeping aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.
- 5) "Mining" means the extraction of aggregate from the earth by underground and surface mining and includes the extraction of aggregate by the mine owner or operator.
- 6) "Off Highway Hauling" means carrying or transporting and would include transport of overburden or waste material, including byproduct materials from the processing facility for disposal, transporting aggregates from the aggregate deposit to the processing facility by conveyors or unlicensed vehicles, and conveying aggregates from the beginning of the processing cycle through the last stage of aggregate production, which ends at the time the aggregate is ready for sale.
- 7) "Processing" means preparation activities performed directly on the aggregate that are necessary for converting aggregate into a finished product so that it is ready for sale or the reprocessing of aggregate fines to extract and recycle construction aggregates by the mine owner, operator, or third party contractor or successor. Processing includes, but is not limited to, sizing, crushing, drying and washing.
- 8) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.
- 9) "Replacement Parts" means parts that are used to replace parts of qualifying equipment that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

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- 10) "Used primarily" means that the equipment and replacement parts must be used more than 50% of the time in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.
- c) Exempt Activities. By way of illustration and not limitation, the following activities will be considered to constitute aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation:
  - 1) Aggregate is produced in a surface mining operation that begins with locating the aggregate deposit to be mined, clearing of surface obstacles and overburden from the land above the aggregate deposit to be mined, continues with the removal of waste material and with the extraction of the aggregate, continues with the transportation from the aggregate deposit to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material, continues further with the processing of the aggregate, and ends with the stockpiling of the aggregate. By way of illustration and not limitation, the following equipment is exempt:
    - A) Geophysical surveying, excavating, dredging and drilling machinery and equipment used primarily to locate surface mine aggregate deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment).
    - B) Equipment used primarily to remove overburden and other waste materials from the deposit to be mined.
    - C) Equipment used primarily to drill and load holes for blasting material used to fracture aggregate for extraction; blasting agents used primarily for surface aggregate mine blasting, including, but not limited to, ammonium nitrate and fuel oil or ANFO; equipment used primarily to ignite blasting agents, including, but not limited to, high explosives, detonators, lead-in lines and blasting machines; and equipment used primarily to transport the blasting material.
    - D) Equipment used primarily to modify the energy purchased for the surface mining process if the equipment is used to modify the

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energy for use on exempt equipment (e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage or frequency of the electric current and transmit the electrical current to aggregate surface mining and processing equipment).

- E) Pumps, hoses, piping and discharge apparatus, used primarily in the movement or removal of water or to divert water from the active mine area.
- F) Equipment used primarily to load the overburden, waste material or aggregate to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.
- G) Equipment used primarily to extract aggregate from the earth.
- H) Unlicensed off highway haulage trucks or a conveyor system used primarily to transport overburden, waste material or aggregate to the processing facility.
- I) Equipment used primarily to backfill, grade, seed, plant or otherwise reclaim previously mined land.
- J) Crushing, screening and other equipment used primarily to beneficiate and size aggregate products.
- K) Equipment used primarily in an aggregate wash plant to clean the aggregate prior to sale to customers.
- L) Equipment used primarily to blend different grades of aggregate together so that the final product meets customer specifications.
- M) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field (e.g., draglines and shovels that move and load overburden and shovels that load aggregate in the pit).
- N) Computers and electrical control panels integral to and used primarily to operate exempt equipment used primarily in aggregate

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exploration, mining, off highway hauling, processing, maintenance and reclamation.

- O) Remote audio visual equipment integral to and used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.
  - P) Electrical generators used primarily to power exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
  - Q) Communication equipment integral to and used primarily in production and operation activities in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
- 2) Aggregate is produced in an underground mining operation that begins with locating the aggregate deposit to be mined, creating access from the surface to the aggregate deposit to be mined, continues further with the installation of roof supports, continues with the removal of waste material and the extraction of aggregate, continues further with the transportation from the aggregate deposit to the processing facility, continues further with the processing of aggregate and disposal of waste material from the mine and processing facility, and ends with the stockpiling of aggregate. By way of illustration and not limitation, the following equipment is exempt:
- A) Geophysical surveying, excavating, and drilling machinery and equipment used primarily to locate underground mine aggregate deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment).
  - B) Equipment used primarily to create access to the aggregate deposit (e.g., drills, equipment to deliver blasting agents, excavators, loaders and tunnel boring equipment) and equipment used primarily to load aggregate on to conveyor belts, trucks or other conveyances used primarily to transport aggregate from the deposit to the processing operation (e.g., loaders).

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- C) Equipment used primarily to drill and load holes for blasting material used to fracture aggregate for extraction; blasting agents (such as ammonium nitrate and fuel oil or ANFO) used for underground aggregate mine blasting; equipment used primarily to ignite blasting agents, including, but not limited to, high explosives, detonators, lead-in lines and blasting machines; and equipment used primarily to transport the blasting material.
- D) Equipment, other than motor vehicles required to be registered pursuant to the Illinois Vehicle Code, used primarily to transport miners into and out of an underground mine (e.g., mantrips, utility vehicles, mobile equipment and scoops).
- E) Conveyor belts, trucks or other conveyances primarily used to transport aggregate from the deposit to the processing operation.
- F) The feeder and crusher used primarily to break large pieces of aggregate.
- G) Equipment used primarily to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment (e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage or frequency of the electric current and transmit the electrical current to aggregate underground mining and processing equipment).
- H) Pumps, hoses, piping and discharge apparatus, used primarily in the movement or removal of water or to divert water from the underground mine area.
- I) Equipment used primarily to install roof bolts, roof bolt supports and side rib bolt supports, and scaling prior to roof bolting, to prevent mine collapse.
- J) Roof bolts and plates, side rib bolts and plates, and epoxy resin cartridges used primarily to secure roof bolts and side rib bolts installed to prevent mine collapse.

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- K) Equipment used primarily to coat mine walls with inert material for loose rock safety.
- L) Equipment installed as improvements to real estate for mining, such as elevators and rail, ventilating and illuminating systems, including the foundations for that equipment as long as those foundations are located within the underground mine.
- M) Additions to exempt underground rail conveyors and ventilating and illumination systems due to the progression of mining.
- N) Crushing, screening and other equipment used primarily to beneficiate and size aggregate products.
- O) Machinery and equipment used primarily to convey aggregates from the beginning of the processing cycle through the last stage of aggregate production, which ends at the time the aggregate is ready for sale.
- P) Equipment used primarily in an aggregate wash plant to clean the aggregate prior to sale to customers.
- Q) Equipment used primarily to blend different grades of aggregate together so that the final product meets customer specifications.
- R) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field (e.g., draglines and shovels that move and load overburden and shovels that move and load aggregate in the pit).
- S) Computers and electrical control panels integral to and used primarily to operate exempt equipment used in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.
- T) Remote audiovisual equipment integral to and used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.

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- U) Electrical generators used primarily to power exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
  - V) Communication equipment integral to and used primarily in production and operation activities in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.
- 3) By way of illustration and not limitation, the following maintenance equipment is exempt:
- A) Unlicensed maintenance and welding trucks used primarily for field repair of exempt equipment.
  - B) Lathes, drill presses, air compressors and welders used primarily to build, modify or rework exempt repair parts or equipment.
  - C) Mobile and overhead cranes and manlifts used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.
  - D) Equipment used primarily for dust suppression.
  - E) Equipment and machinery used primarily to clean areas around off-highway conveying and processing machinery and equipment.
- 4) By way of illustration and not limitation, the following aggregate exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:
- A) Drill rigs used primarily to drill exploration core holes.
  - B) Water trucks used primarily in the drilling process.
  - C) Winch and casing trucks used primarily in the drilling process.
  - D) Field maintenance trucks used primarily to make repairs on exempt

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field equipment.

- E) Air compressors used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.

d) Nonexempt Activities

By way of illustration and not limitation, the following activities will not be considered to constitute aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation:

- 1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures, such as roof supports to prevent mine collapse;
- 2) the use of equipment in research and development for new uses of aggregate;
- 3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production of extraction scheduling, purchasing, receiving, accounting, fiscal management, communications equipment (e.g., radios and phones), security, marketing, product exhibition and promotion, and personnel recruitment, selection or training;
- 4) the use of equipment to prevent or fight fires or other mining hazards and protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, rescue chambers, self-rescuers, protective mine shelters or tracking devices (e.g., Global Positioning Systems or similar devices) even though such equipment and supplies may be required by law;
- 5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance and reclamation operation;

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- 6) the use of facilities for storing aggregate after extraction and processing;
  - 7) the use of front-end loaders, cranes, conveyors and equipment used primarily to load aggregate onto trucks, railcars or barges for delivery to customers;
  - 8) the use of concrete foundations and support structures for ventilation equipment used aboveground.
- e) Sales to Lessors of Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
- 1) For the exemption to apply, the purchaser need not, himself or herself, employ the equipment in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption. A supplier may exclude those sales from taxable gross receipts if the purchaser-lessor provides the supplier with a properly completed certificate and the information contained in the certificate would support an exemption if the sale were made directly to the lessee.
  - 2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the exemption, the purchaser-lessor will become liable for the tax that he or she previously did not pay. The tax will be assessed upon the fair market value of the equipment at the time of conversion.
- f) Purchaser Certification
- Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. If a purchaser can claim either the exemption under this Section or the Manufacturing Machinery and Equipment exemption, the purchaser must specify on the certificate which exemption the purchaser is claiming. Manufacturer's Purchase Credit can only be earned on purchases of qualifying Manufacturing Machinery and Equipment (see 86 Ill. Adm. Code 130.330 and 130.331). Purchasers claiming the exemption

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under this Section cannot earn Manufacturer's Purchase Credit. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment that is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 43 Ill. Reg. 4201, effective March 20, 2019)

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Uniform Disposition of Unclaimed Property Act
- 2) Code Citation: 74 Ill. Adm. Code 760
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
760.10	Repealed
760.15	Repealed
760.20	Repealed
760.21	Repealed
760.22	Repealed
760.24	Repealed
760.25	Repealed
760.30	Repealed
760.35	Repealed
760.40	Repealed
760.50	Repealed
760.60	Repealed
760.70	Repealed
760.85	Repealed
760.89	Repealed
760.90	Repealed
760.92	Repealed
760.94	Repealed
760.95	Repealed
760.100	Repealed
760.110	Repealed
760.115	Repealed
- 4) Statutory Authority: Implementing and authorized by the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025].
- 5) Effective Date of Repealer: March 25, 2019
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer is on file in the State Treasurer's office at 219 State House, Springfield IL 62706 and is available for public inspection.

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED REPEALER

- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17121; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rule? No
- 11) Difference between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this repealer replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: PA 100-22 repealed the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025] and replaced this Act with the Revised Uniform Unclaimed Property Act [765 ILCS 1026]. Therefore, the existing Uniform Disposition of Unclaimed Property Act administrative rule is being repealed and replaced with a proposed rule titled Revised Uniform Unclaimed Property Act (using the same Part number) in order to provide clarity and guidance to the regulated community.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Sara Meek  
Deputy Director of Legislative Affairs  
Illinois State Treasurer  
219 State House  
Springfield IL 62706

217/524-0530

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Revised Uniform Unclaimed Property Act
- 2) Code Citation: 74 Ill. Adm. Code 760
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
760.100	New Section
760.200	New Section
760.210	New Section
760.215	New Section
760.220	New Section
760.230	New Section
760.240	New Section
760.250	New Section
760.260	New Section
760.270	New Section
760.280	New Section
760.290	New Section
760.300	New Section
760.310	New Section
760.400	New Section
760.410	New Section
760.420	New Section
760.430	New Section
760.440	New Section
760.450	New Section
760.460	New Section
760.470	New Section
760.500	New Section
760.510	New Section
760.520	New Section
760.530	New Section
760.540	New Section
760.550	New Section
760.560	New Section
760.570	New Section
760.600	New Section
760.610	New Section
760.620	New Section
760.630	New Section

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760.640	New Section
760.650	New Section
760.660	New Section
760.670	New Section
760.680	New Section
760.690	New Section
760.700	New Section
760.710	New Section
760.720	New Section
760.730	New Section
760.740	New Section
760.750	New Section
760.760	New Section
760.770	New Section
760.780	New Section
760.790	New Section
760.800	New Section
760.810	New Section
760.820	New Section
760.830	New Section
760.840	New Section
760.850	New Section
760.900	New Section
760.910	New Section
760.920	New Section
760.930	New Section
760.940	New Section
760.950	New Section
760.960	New Section
760.970	New Section
760.980	New Section
760.1000	New Section
760.1010	New Section
760.1100	New Section
760.APPENDIX A	New Section

4) Statutory Authority: 765 ILCS 1026

5) Effective Date of Rules: March 25, 2019

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- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes, see Sections 760.100, 760.200, 760.220, and 760.980.
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the State Treasurer's office at 219 State House, Springfield, IL 62706 and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 17145; September 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between Proposal and Final Version: Revised language throughout to correct technical issues. Added definition of "affiliated group of merchants" to Section 100. Added language to Section 300 to further specify owner-initiated activities. Sections 410 and 470 were revised to show italics where the language is statutory. Revised language in Section 450 for consistency with the "reasonable cause" standard. Finally, revised Section 770 to extend the time period for confidentiality agreements.
- 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: In 2017, the General Assembly adopted the Revised Uniform Unclaimed Property Act (RUUPA), which was based on the 2016 Uniform Law Commission (ULC) Act, and repealed the existing Uniform Disposition of Unclaimed Property Act [765 ILCS 1025], which was based on the 1954 ULC Act. These proposed rules implement the Illinois Revised Uniform Unclaimed Property Act [765 ILCS 1026] as adopted by the General Assembly through PAs 100-22 and 100-566.

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The rules include a definition section (Subpart A), which restates many of the statutory definitions, with appropriate clarification, and adds new definitions for terms that are used within the rules.

Subpart B provides clarity and guidance in determining when different types of properties are presumed abandoned and how they should be reported, including tax-deferred accounts, safe deposit boxes, stored value cards, gift cards, merchandise credits, and securities. The rules also provide details on what actions do and do not qualify as apparent owner interest sufficient to rebut a statutory presumption of abandonment.

Subpart C provides specific instructions for reporting and remitting unclaimed property to the State Treasurer, including how and when to file reports, how to report early or request an extension, and deadlines for refileing a rejected report. The due diligence process, required before filing a report, along with statutory records retention requirements are also explained in Subpart C.

Subpart D specifies the various methods that the State Treasurer will utilize in trying to locate and notify apparent owners of unclaimed property in the custody of the State, including notice by US mail, e-mail, and newspaper and website publications.

Subpart E explains the process of claiming unclaimed property from the State Treasurer, including the burden of proof required to claim property, an expedited process for claims of property of less than \$500, and the use of tax return information to locate apparent owners and return unclaimed property to them. Subpart E also explain how interest payments on certain types of properties will be calculated.

Subpart F provides guidance and protections for persons subject to unclaimed property examinations pursuant to the Act, including detailed requirements for the hiring and use of contract auditors by the State Treasurer, guidelines for the conduct of examinations, limits on the use of estimation in examinations, audit resolution agreements and a voluntary disclosure program. This subpart also provide clarity concerning which entities are to be examined by the Illinois Department of Financial and Professional Regulation instead of the State Treasurer.

Subpart G details the State Treasurer's enforcement authority and the system of voluntary reporting under RUUPA, details the process for issuing and seeking to enforce administrative subpoenas as authorized by RUUPA, explains the State Treasurer's interpretation of when interest and penalties shall and may be imposed,

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provides for requesting the assistance of the Attorney General in seeking judicial enforcement of RUUPA in Illinois or another State, and explains the statute of limitations.

PA 100-22 provided an explicit statutory exemption from the Freedom of Information Act (FOIA) for some records and information obtained pursuant to RUUPA. Subpart H authorizes the State Treasurer's Freedom of Information Officer to deny requests for those records. In addition, the proposed rules make it clear that auditors are restricted in their use of such confidential information.

Subpart I addresses issues related to the transition to RUUPA, including explaining the look-back period, as well as waivers of interest and penalties, for certain property reported pursuant to the transition provision of RUUPA.

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

Sara Meek  
Deputy Director of Legislative Affairs  
Illinois State Treasurer  
219 State House  
Springfield IL 62706

217/524-0530

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

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TITLE 74: PUBLIC FINANCE  
CHAPTER V: TREASURERPART 760  
REVISED UNIFORM UNCLAIMED PROPERTY ACT

## SUBPART A: DEFINITIONS

Section  
760.100 Definitions

## SUBPART B: PRESUMPTION OF ABANDONMENT

Section  
760.200 Tax-Deferred Accounts  
760.210 Safe Deposit Boxes  
760.215 Deposits with Financial Organizations  
760.220 Stored Value Cards  
760.230 Gift Cards  
760.240 Payroll Cards  
760.250 Merchandise Credits  
760.260 Loyalty Cards  
760.270 Property Related to Preneed Death Care Contracts  
760.280 Reporting Securities  
760.290 Deceased Owner  
760.300 Apparent Owner Interest  
760.310 Anti-Limitations Provision

## SUBPART C: REPORTING

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760.400 Holder Reporting Required  
760.410 Report Contents  
760.420 Filing Dates  
760.430 Early Reporting and Remittance of Property  
760.440 Extensions  
760.450 Incomplete and Rejected Reports  
760.460 Due Diligence Notice by Holder  
760.470 Retention of Records by Holder

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## SUBPART D: NOTICE TO APPARENT OWNERS BY THE ADMINISTRATOR

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760.500	Notices by United States Mail
760.510	E-Mail Notices
760.520	Newspaper Notices
760.530	Website
760.540	Tax Return Identification of Apparent Owners
760.550	Updating Apparent Owner Data
760.560	Other Discretionary Means of Providing Notice
760.570	Confidentiality

## SUBPART E: CLAIMS

## Section

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760.610	Burden of Proof
760.620	Filing of Claims
760.630	Tax Return Identification of Apparent Owners
760.640	Crediting Income or Gain to Owner's Account
760.650	Finders
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760.670	Debt Collection Agencies
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## SUBPART F: EXAMINATIONS

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760.790	Estimation
760.800	Multistate Examinations
760.810	Bankruptcy
760.820	Audit Resolution Agreements
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760.840	Voluntary Disclosure Agreement Program
760.850	Examination of State-Regulated Financial Organizations

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760.900	Purpose of Enforcement
760.910	Verified Report of Property
760.920	Administrative Subpoenas
760.930	Determination of Liability
760.940	Interest and Penalties
760.950	Waiver of Interest and Penalties
760.960	Judicial Enforcement
760.970	Action Involving Another State or Foreign Country
760.980	Periods of Limitation and Repose

## SUBPART H: CONFIDENTIALITY

Section	
760.1000	Confidentiality
760.1010	Confidentiality of Records Obtained During Examination

## SUBPART I: MISCELLANEOUS

Section	
760.1100	Transition Provisions

## 760.APPENDIX A Background Information

AUTHORITY: Implementing and authorized by the Revised Uniform Unclaimed Property Act [765 ILCS 1026].

SOURCE: Filed November 20, 1977; emergency amendment at 3 Ill. Reg. 39, p. 225, effective September 14, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 48, p. 153, effective

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November 20, 1979; rules repealed, new rules adopted and codified at 8 Ill. Reg. 1464, effective January 18, 1984; amended at 15 Ill. Reg. 8555, effective May 24, 1991; amended at 17 Ill. Reg. 123, effective December 21, 1992; emergency amendment at 17 Ill. Reg. 6321, effective April 6, 1993; amended at 17 Ill. Reg. 9893, effective June 21, 1993; amended at 18 Ill. Reg. 18001, effective December 12, 1994; amended at 20 Ill. Reg. 8325, effective June 8, 1996; recodified from the Department of Financial Institutions (38 Ill. Adm. Code 180) to the State Treasurer, pursuant to PA 91-16, at 26 Ill. Reg. 8164; emergency amendment at 28 Ill. Reg. 13919, effective October 5, 2004, for a maximum of 150 days; emergency expired March 3, 2005; amended at 36 Ill. Reg. 12162, effective July 12, 2012; amended at 37 Ill. Reg. 5886, effective April 18, 2013; amended at 40 Ill. Reg. 16804, effective December 19, 2016; old Part repealed at 43 Ill. Reg. 4251 and new Part adopted at 43 Ill. Reg. 4253, effective March 25, 2019.

## SUBPART A: DEFINITIONS

**Section 760.100 Definitions**

"Act" or "Revised Act" means the Revised Uniform Unclaimed Property Act [765 ILCS 1026].

*"Administrator" means the State Treasurer.*

*"Administrator's Agent" or "Auditor" means a person with whom the administrator contracts to conduct an examination under Article 10 of the Act on behalf of the administrator. The term includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor.*

"Affiliated Group of Merchants" means 2 or more affiliated merchants or other persons that are related by common ownership or common corporate control and that share the same name, mark, or logo. The term also applies to 2 or more merchants or other persons that agree among themselves, by contract or otherwise, to redeem cards, codes, or other devices bearing the same name, mark, or logo (other than the mark, logo, or brand of a payment network), for the purchase of goods or services solely at such merchants or persons. However, merchants or other persons are not considered to be affiliated merely because they agree to accept a card that bears the mark, logo, or brand of a payment network.

*"Apparent Owner" means a person whose name appears on the records of a holder as the owner of property held, issued or owing by the holder.*

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*"Business Association" means a corporation, joint stock company, investment company, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity, whether or not for profit.*

*"Confidential Information" means information that is "personal information" under the Personal Information Protection Act [815 ILCS 530/5], "private information" under the Freedom of Information Act [5 ILCS 140/2(c-5)], or personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information as provided in the Freedom of Information Act [5 ILCS 140/7(1)(c)].*

*"Domicile" means:*

*for a corporation, the state of its incorporation;*

*for a business association whose formation requires a filing with a state, other than a corporation, the state of its filing;*

*for a federally chartered entity or an investment company registered under the Investment Company Act of 1940 (15 USC 80a-1 through 80a-63), the state of its home office; and*

*for any other holder, the state of its principal place of business.*

"DOR" means the Illinois Department of Revenue.

*"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.*

*"Electronic Mail" or "E-mail" means a communication by electronic means that is automatically retained and stored and may be readily accessed or retrieved.*

*"Escheat Fee" means any charge imposed solely by virtue of property being reported as presumed abandoned.*

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*"Financial Organization" means a bank, savings bank, foreign bank, corporate fiduciary, currency exchange, money transmitter, or credit union.*

*"Former Act" means the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025], repealed effective January 1, 2018.*

*"Game-Related Digital Content" means digital content that exists only in an electronic game or electronic game platform. The term includes:*

*game-play currency such as a virtual wallet, even if denominated in United States currency;*

*the following, if for use or redemption only within the game or platform or another electronic game or electronic game platform:*

*points sometimes referred to as gems, tokens, gold and similar names; and*

*digital codes; and*

*does not include an item that the issuer:*

*permits to be redeemed for use outside a game or platform for money or goods/services that have more than minimal value; or*

*otherwise monetizes for use outside a game or platform.*

*"Gift Card" means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services or money will be provided to the owner of the record to the value or amount shown in the record that is either:*

*a record:*

*issued on a prepaid basis primarily for personal, family or household purposes to a consumer in a specified amount;*

*the value of which does not expire;*

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*that is not subject to a dormancy, inactivity or post-sale service fee;*

*that is redeemable upon presentation for goods or services; and*

*that, unless required by law, may not be redeemed for or converted into money or otherwise monetized by the issuer; or*

*a prepaid commercial mobile radio service, as defined in 47 CFR 20.3.*

*"Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner, property subject to the Act.*

*"Insurance Company" means an association, corporation or fraternal or mutual-benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities or insurance, including accident, burial, casualty, credit-life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection, and workers' compensation insurance.*

*"Loyalty Card" means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services. The term does not include a record that may be redeemed for money or otherwise monetized by the issuer.*

*"Merchandise Credit" means in-store credit for returned merchandise redeemable for merchandise, goods or services upon presentation at a single merchant or an affiliated group of merchants.*

*"Mineral" means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by other law of this State.*

*"Mineral Proceeds" means an amount payable for extraction, production, or sale of minerals, or, on the abandonment of the amount, an amount that becomes payable after abandonment. The term includes an amount payable:*

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*for the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, and delay rental;*

*for the extraction, production or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment, and production payment; and*

*under an agreement or option, including a joint-operating agreement, unit agreement, pooling agreement, and farm-out agreement.*

*"Money Order" means a payment order for a specified amount of money. The term includes an express money order and a personal money order on which the remitter is the purchaser.*

*"Municipal Bond" means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.*

*"Net Card Value" means the original purchase price or original issued value of a stored-value card, plus amounts added to the original price or value, minus amounts used and any service charge, fee, or dormancy charge permitted by law.*

*"Non-Freely Transferable Security" means a security that cannot be delivered to the administrator by the Depository Trust Clearing Corporation or similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. The term includes a worthless security.*

*"Owner", unless the context otherwise requires, means a person that has a legal, beneficial, or equitable interest in property subject to the Act or the person's legal representative when acting on behalf of the owner. The term includes:*

*a depositor, for a deposit;*

*a beneficiary, for a trust other than a deposit in trust;*

*a creditor, claimant or payee, for other property; and*

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*the lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.*

*"Payroll Card" means a record that evidences a payroll-card account as defined in 12 CFR 1005 (Regulation E).*

*"Payroll-Card Account" is an account that is directly or indirectly established through an employer and to which electronic fund transfers of the consumer's wages, salary or other employee compensation (such as commissions) are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution, or any other person.*

*"Person" means an individual, estate, business association, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity, whether or not for profit.*

*"Property" means tangible property described in Section 15-201 of the Act or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government, governmental subdivision, agency or instrumentality. The term:*

*includes all income from or increments to the property;*

*includes property referred to as or evidenced by:*

*money, virtual currency, interest, or a dividend, check, draft, deposit or payroll card;*

*a credit balance, customer's overpayment, stored-value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance;*

*a security except for:*

*a worthless security; or*

*a security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by*

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*operation of law, if the lien, legal hold, or restriction restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;*

*a bond, debenture, note, or other evidence of indebtedness;*

*money deposited to redeem a security, make a distribution, or pay a dividend;*

*an amount due and payable under an annuity contract or insurance policy;*

*an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profitsharing, employee savings, supplemental unemployment insurance, or a similar benefit; and*

*any instrument on which a financial organization or business association is directly liable; and*

*does not include:*

*game related digital content;*

*a loyalty card; or*

*a gift card.*

*"Putative Holder" means a person believed by the administrator to be a holder, until the person pays or delivers to the administrator property subject to the Act, or the administrator or a court makes a final determination that the person is or is not a holder.*

*"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.*

*"Records of the Holder" includes records maintained by a third party which has contracted with the holder.*

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*"Security" means:*

*a security as defined in Article 8 of the Uniform Commercial Code [810 ILCS 5/8-102];*

*a security entitlement as defined in Article 8 of the Uniform Commercial Code, including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:*

*registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;*

*payable to the order of the person; or*

*specifically indorsed to the person; or*

*an equity interest in a business association not included in the above paragraph.*

*"Sign" means, with present intent to authenticate or adopt a record:*

*to execute or adopt a tangible symbol; or*

*to attach to or logically associate with the record an electronic symbol, sound or process.*

*"State", when not limited to the State of Illinois, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. When capitalized, the term "State" means the State of Illinois.*

*"State Treasurer" means the duly elected Treasurer of the State of Illinois.*

*"Stored-Value Card" means a card, code, or other device that is:*

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*issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether or not that amount may be increased or reloaded in exchange for payment; and*

*redeemable upon presentation at multiple unaffiliated merchants for goods or services or usable at automated teller machines;*

*Stored value card does not include a gift card, payroll card, loyalty card, or game related digital content.*

*"Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:*

*transmission of communications or information;*

*production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam or gas; or*

*provision of sewage or septic services, or trash, garbage or recycling disposal.*

*"Virtual Currency" means a digital representation of value used as a medium of exchange, unit of account, or store of value that does not have legal tender status recognized by the United States. The term does not include:*

*the software or protocols governing the transfer of the digital representation of value;*

*game related digital content; or*

*a loyalty card or gift card.*

*"Worthless Security" means a security whose cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under the Act. [765 ILCS 1026/15-102]*

## SUBPART B: PRESUMPTION OF ABANDONMENT

**Section 760.200 Tax-Deferred Accounts**

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- a) Sections 15-202 and 15-203 of the Act indicate when "tax deferred" accounts are presumptively abandoned. Section 15-202 prescribes the rules for tax deferred retirement accounts and Section 15-203 prescribes the rules for other tax deferred accounts. These rules for tax deferred accounts generally have longer periods of abandonment than accounts covered by Section 15-201 of the Act.
- b) A retirement account that is tax advantaged under the income tax laws of the United States will generally be considered tax deferred under the Act. A Roth IRA is considered tax deferred under the Act and the rules under Section 15-202 apply to a Roth IRA.
- c) In some cases, federal law, specifically ERISA (29 USC 1001 et seq.), may preempt the Act and prevent reporting and remitting retirement accounts or other property representing a retirement plan asset that would otherwise be reportable under the Act. Concerning ERISA preemption and unclaimed property statutes, see *Commonwealth Edison Co. v. Vega*, 174 F.3d 870 (7<sup>th</sup> Cir. 1999). Nonqualified, government and church plans are not subject to an ERISA preemption, nor are uncashed plan distribution checks issued by a qualified plan that lacks, or has failed to exercise, a forfeiture or other reversionary interest.
- d) If a holder is uncertain whether an account qualifies as tax deferred under the Act (i.e., whether the account is covered by Section 15-201 or by Sections 15-202 and 15-203), whether ERISA preempts the Act for a retirement account, or whether an account is covered by Section 15-202 or Section 15-203, the holder may specifically identify the property in a report filed with the administrator or give express notice to the administrator of a potential dispute regarding the property. Specifically identifying the property in a report or providing express notice to the administrator both ensures that the property will be covered by the limitations period of Section 15-610 of the Act and demonstrates that the holder is attempting to comply with the Act in good faith and without negligence. Specifically identifying the property in a report filed with the administrator indicating that the property is not being remitted because ERISA preemption allows a holder to satisfy both its fiduciary obligation under ERISA, which would generally prohibit remitting the property to the administrator, and any obligation under the Act.
- e) Pursuant to Section 15-405 of the Act (property reportable and payable or deliverable absent owner demand provision) and Section 15-610(a) of the Act (anti-limitations provision) a nonqualified plan or plan not otherwise subject to

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preemption under ERISA is prohibited from forfeiting an account or other property.

- f) The administrator will accept missing participants' account balances reported and remitted by an ERISA plan fiduciary for a terminated defined contribution plan. See United States Department of Labor Field Assistance Bulletin No. 2014-01 (available at [www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins](http://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins)), which indicates that, despite the ERISA preemption for ongoing plans, a plan fiduciary may report and remit "missing participants' account balances under a state's unclaimed property statute to complete the plan termination process".

**Section 760.210 Safe Deposit Boxes**

- a) *Safe deposit boxes with contents that have remained unclaimed for 5 years after expiration of the lease or rental period are presumed abandoned.* [765 ILCS 1026/15-205] Presumptively abandoned boxes shall be opened and inventoried in the presence of at least two employees of the holder who shall verify the accuracy of the inventory. The property shall then be sealed for safekeeping until delivered to the owner or the administrator.
- b) The Annual Report containing information about the contents of safe deposit boxes must be filed before November 1, for financial organizations, and before May 1, for all other business associations, in the year in which the report is due. The Annual Report is to be submitted online. If a holder provides safe deposit boxes, then the Annual Report must be completed in its entirety, verified for accuracy, and filed regardless of whether a holder has abandoned safe deposit boxes to report. A "negative report" indicating no safe deposit box contents are being reported and remitted serves as a control to assist in detecting and preventing fraud or theft.
- c) Notice to the apparent owner must be given prior to remittance to the administrator.
  - 1) *The holder of property presumed abandoned shall send to the apparent owner notice by first-class United States mail that complies with Section 15-502 of the Act in a format acceptable to the administrator not more than one year nor less than 60 days before filing the Annual Report under Section 15-401 of the Act if:*

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- A) *the holder has in its records an address for the apparent owner that the holder's records do not disclose to be invalid and is sufficient to direct the delivery of first-class United States mail to the apparent owner; and*
- B) *the value of the property is \$50 or more.*
- 2) *If an apparent owner has consented to receive electronic-mail delivery from the holder, the holder shall send the notice both by first-class United States mail to the apparent owner's last-known mailing address and by electronic mail, unless the holder believes that the apparent owner's electronic-mail address is invalid. [765 ILCS 1026/15-501]*
- d) *Tangible property from a safe deposit box may not be delivered to the administrator until a mutually agreed upon date that is no sooner than 60 days after filing the Annual Report. [765 ILCS 1026/15-603(b)]*
- 1) All safe deposit box shipments shall include a full copy of the previously submitted Annual Report. The Annual Report shall list all properties included and an inventory of each property.
- 2) Each property shall be provided in a tamper evident bag or envelope. An inventory sheet for each specific property shall be attached to or enclosed in the bag or envelope.
- 3) When remitting multiple properties at the same time, each property shall be in a separate tamper evident bag or envelope and labeled with the name of the owner. If a single property requires the use of more than one bag/envelope, the bags/envelopes are to be numbered accordingly (i.e., 1 of 3, 2 of 3, etc.).
- e) Reimbursement of Holder
- 1) *Property removed from a safe deposit box and delivered to the administrator under the Act is subject to the holder's right to reimbursement for the cost of opening the box and a lien or contract providing reimbursement to the holder for unpaid rent charges for the box. Upon application by the holder, and after there are sufficient cash*

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*funds available either from the contents of the box or the sale of the property, the administrator shall reimburse the holder from the proceeds.*  
[765 ILCS 1026/15-606]

- 2) Holders may only be reimbursed for any costs and charges that were included in the Annual Report listing the contents of the safe deposit box whose owner owes the costs and charges to the holder.
- 3) It is the responsibility of the holder to apply for reimbursement of costs and charges under Section 15-606 of the Act. The administrator shall make available on the administrator's website a form for holders to apply for reimbursement under Section 15-606 of the Act.
- 4) If, after the sale of property removed from a safe deposit box and delivered to the administrator, there are not sufficient cash funds available to fully reimburse the holder for costs and charges allowed under Section 15-606 of the Act, the holder may apply to the administrator to be partially reimbursed up to the amount of cash funds available. If, however, the administrator pays all available cash funds to the holder under this subsection (e), the holder may not claim any additional costs and charges from the same safe deposit box.

**Section 760.215 Deposits with Financial Organizations**

- a) Demand, Savings, or Time Deposits. A demand, savings, or time deposit, unless it is automatically renewable, is presumed abandoned *3 years after the later of maturity or the date of the last indication of interest in the property by the apparent owner.* [765 ILCS 1026/15-201(6)]
- b) Automatically Renewable Deposits
  - 1) General Rule. *A deposit that is automatically renewable is presumed abandoned 3 years after its initial date of maturity.* [765 ILCS 1026/15-201(6)]
  - 2) Anti-penalty Provision. *If property in a report under Section 15-401 of the Act is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the report, the date for payment of the*

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*property to the administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date. [765 ILCS 1026/15-603(b)]*

- 3) Under the Act, the time when a holder is required to remit to the administrator a presumptively abandoned automatically renewable deposit is dependent upon both the term of the deposit and whether there is a penalty or forfeiture of interest provision applicable to such an automatically renewable deposit.
- 4) If it does not have a penalty or forfeiture of interest provision, then a presumptively abandoned automatically renewable deposit should be remitted to the administrator with the holder's first report after the initial term of the deposit plus 3 years.
- 5) When a holder is required to remit a presumptively abandoned automatically renewable deposit with a penalty or forfeiture of interest provision depends upon the term of the deposit.
  - A) A presumptively abandoned automatically renewable deposit with a term of less than one year should be remitted to the administrator in the holder's first report after the initial term plus 3 years.

EXAMPLE: A 6-month certificate of deposit would be remitted with the holder's first report after 4 years have passed. This would be the initial 6-month term plus the 6 additional 6-month terms that comprise the 3-year period of abandonment and then the time, which should be less than a year, until the holder's next report is due under the Act.

- B) A presumptively abandoned automatically renewable deposit with a term of less than 3 years, but more than one year, should be remitted to the administrator with the holder's first report after the initial term plus 3 years plus any time needed to avoid a penalty.

EXAMPLE: A 2-year certificate of deposit would be remitted with the holder's first report after 6 years have passed. This would be the initial 2-year term plus the 3-year period of abandonment plus

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the final year of the third 2-year term so as to avoid the penalty (i.e., the first report after three 2-year terms).

- C) A presumptively abandoned automatically renewable deposit with a term of 3 years or more should be remitted to the administrator with the holder's first report after the end of the second term of the deposit.

EXAMPLE: A 5-year certificate of deposit would be remitted with the holder's first report after 10 years have passed. After the first 5-year term, the end of the 3-year period of abandonment falls within the second 5-year term. So, to avoid any penalty, the certificate of deposit is remitted with the holder's first report after the end of the second 5-year term.

**Section 760.220 Stored Value Cards**

- a) Stored Value Cards
- 1) Unless otherwise exempted by the Act or this Part, the net card value of a stored value card is required to be reported and remitted under the Act as property that is presumed abandoned pursuant to Section 15-206 of the Act.
  - 2) In determining whether property falls within the definition of stored value card under the Act, the State Treasurer will consider the federal regulations concerning gift cards and gift certificates and official staff interpretations issued by the Board of Governors of the Federal Reserve System as part of what is commonly known as "Regulation E" (12 CFR 1005 (2011)). A stored value card will, in most cases, be a "general-use prepaid card" under those federal regulations. The use of those federal regulations and interpretations by the State Treasurer is intended to harmonize definitions and concepts used by state and federal regulators to make compliance easier for affected businesses.
  - 3) Property that satisfies the definition of payroll card, merchandise credit, or gift card is not a stored value card.

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- 4) If a holder has reported and remitted to the administrator the net card value on a stored-value card presumed abandoned under the Act and the stored-value card does not have an expiration date, then the holder must honor the card on presentation indefinitely and may then request reimbursement from the administrator under Section 15-605 of the Act.
  - A) This provision is required for the Act to avoid preemption by federal law.
  - B) See Notice of preemption determination "Electronic Fund Transfers; Determination of Effect on State Laws (Maine and Tennessee)" (Docket No. CFPB-2012-0036) issued by the federal Bureau of Consumer Financial Protection holding that Maine's unclaimed property law was not preempted by federal law because it contained an indefinite presentation provision, but Tennessee's unclaimed property law, which did not contain an indefinite presentation provision, was preempted by federal law.

**Section 760.230 Gift Cards**

- a) Gift cards as defined in the Act are exempt from being reported and remitted as property that is presumed abandoned. Gift cards are excluded from the definition of property in the Act (see 765 ILCS 1026/15-102(24)(C)(iii)).
- b) If property does not satisfy all the parts of the definition of gift card under the Act, then it does not qualify for the gift card exemption.
- c) Property that does not qualify as a gift card includes, but is not limited to, property that:
  - 1) has an expiration date;
  - 2) is subject to a dormancy, inactivity, or post-sale service fee; or
  - 3) may be redeemed for money, including at automated teller machines.

**Section 760.240 Payroll Cards**

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- a) Amounts held on payroll cards are presumed abandoned one year after the amount becomes payable under Section 15-201(13) of the Act.
- b) Because payroll cards are not stored value cards, this one year period of abandonment applies to payroll cards instead of the 5-year period of abandonment for stored value cards under Section 15-206 of the Act.

**Section 760.250 Merchandise Credits**

- a) Merchandise credits are exempt from being reported and remitted under the Act pursuant to Section 15-201(7) of the Act.
- b) This exemption includes, but is not limited to, a stored value card that is given as in-store credit for returned merchandise.
- c) However, the exemption for merchandise credits does not include stored value cards that:
  - 1) are redeemable at multiple, unaffiliated merchants; or
  - 2) may be redeemed for or converted into money or otherwise monetized by the issuer.

**Section 760.260 Loyalty Cards**

A loyalty card as defined in the Act is not a stored value card and is exempt from being reported and remitted.

**Section 760.270 Property Related to Preneed Death Care Contracts**

- a) Illinois Funeral or Burial Funds Act [225 ILCS 45]
  - 1) Funds on deposit or held in trust pursuant to the Illinois Funeral or Burial Funds Act are covered under the Act pursuant to Section 15-201(9).
  - 2) Proceeds of a life insurance policy or annuity contract, even if used to fund a pre-need contract pursuant to the Illinois Funeral or Burial Funds Act, are covered under the Act pursuant to Sections 15-201(8) and 15-211.

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- 3) The relevant provisions of Section 4 of the Illinois Funeral or Burial Funds Act determine the amount to be reported and remitted as unclaimed property under the Act.
    - A) *If, after the death of the beneficiary, no funeral merchandise or services are provided or if the funeral is conducted by another provider, the seller may keep no more than 10% of the payments made under the pre-need contract or \$300, whichever sum is less. The remainder of the trust funds or insurance or annuity proceeds shall be forwarded to the legal heirs of the deceased beneficiary or as determined by probate action. [225 ILCS 45/4(c-5)]* If the legal heirs of the deceased beneficiary cannot be located and there is not an active probate action, the remainder of trust funds should be reported and remitted as unclaimed property pursuant to Section 15-201(9) of the Act and insurance or annuity proceeds should be reported and remitted pursuant to Sections 15-201(8) and 15-211 of the Act.
    - B) Refunds provided pursuant to Section 4 of the Illinois Funeral or Burial Funds Act may become unclaimed property as the debt of a business association under Section 15-201(5) of the Act.
  - 4) If a pre-need contract requires entrustment under both the Illinois Funeral or Burial Funds Act and the Illinois Pre-Need Cemetery Sales Act [815 ILCS 390] and the only item that requires entrustment under the Illinois Pre-Need Cemetery Sales Act is an outer burial container, then, for the purposes of determining a presumption of abandonment under the Act, all amounts entrusted under the pre-need contract shall be treated as though they were entrusted under the Illinois Funeral or Burial Funds Act.
- b) Illinois Pre-Need Cemetery Sales Act
- 1) Burial rights, along with rights of interment, entombment or inurnment are all interests in real property. Interests in real property are not covered by the Act and do not become unclaimed property under the Act.
  - 2) Refunds provided pursuant to Section 18 of the Illinois Pre-Need Cemetery Sales Act [815 ILCS 390] may become unclaimed property as the debt of a business association under Section 15-201(5) of the Act.

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- c) Death Master File
  - 1) The Act does not mandate holders of trust funds under the Illinois Funeral or Burial Funds Act or the Illinois Pre-Need Cemetery Sales Act to compare their records against the Social Security Administration's Death Master File.
  - 2) While the Act does not mandate holders of life insurance or annuities, including those intended to fund a pre-need contract under the Illinois Funeral or Burial Funds Act or Illinois Pre-Need Cemetery Sales Act, to compare their records against the Social Security Administration's Death Master File, holders must still comply with the provisions of the Unclaimed Life Insurance Benefits Act [215 ILCS 185].

**Section 760.280 Reporting Securities**

Remittance of securities. Unless otherwise provided, all securities and commodities when remitted to the State Treasurer shall:

- a) be registered as "Treasurer of the State of Illinois"; or
- b) be deposited into a new or existing securities or commodities account either in the name of "Treasurer of the State of Illinois" or in a nominee account (aka "street name" account) established by a vendor acting as a custodian for the administrator; and
- c) include all dividends, interest, warrants, or other rights, or associated cash in a check payable to "Treasurer of the State of Illinois" unless otherwise directed by the State Treasurer.

**Section 760.290 Deceased Owner**

- a) *Subject to the owner interest provisions of Section 15-210 of the Act, a deceased owner cannot indicate interest in his or her property. [765 ILCS 1026/15-201]*
  - 1) Apparent owner interest shall include the activity of beneficiaries and estate executors or other persons who have a legal or equitable right to

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ownership or custody of the property when the apparent owner as listed in the records of the holder is deceased.

- 2) Thus, while a deceased apparent owner can no longer indicate interest in their own property, the new owner or his/her agent(s) may indicate interest in the property and, thus, prevent abandonment.
- b) If the apparent owner as listed in the records of the holder is deceased and the abandonment period for the owner's property is greater than 2 years, then the property, *shall instead be presumed abandoned 2 years from the date of the owner's last indication of interest in the property. This provision does not apply to an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated.* [765 ILCS 1026/15-201] This statutory provision does not apply to situations involving the death of the apparent owner when the property is covered by either Section 15-202(a)(2)(B) of the Act (tax-deferred retirement accounts) or Section 15-208(d) of the Act (concerning securities), as in neither case is the abandonment period greater than 2 years.
  - c) *A holder who fails to report, pay, or deliver property within the time prescribed by the Act shall not be required to pay interest or be subject to penalties if the failure to report, pay, or deliver the property was due to lack of knowledge of the death that established a shorter period of abandonment under the Act.* [765 ILCS 1026/15-1204(c)]
  - d) The Act does not impose a new or separate duty on a holder to determine whether an apparent owner is deceased. However, the Act does not relieve a holder of any duty imposed by another law, whether state or federal, that may impose such a duty.
  - e) Sections 15-202 and 15-208 of the Act both provide that when a holder, in the ordinary course of its business, receives notice or an indication of the death of an apparent owner, the holder shall attempt not later than 90 days after receipt of the notice or indication to confirm whether the apparent owner is deceased.
    - 1) These provisions are not intended to require a holder to independently confirm the death of the apparent owner when the holder reasonably believes that the apparent owner is deceased.

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- 2) Instead, these provisions establish a 90-day deadline for a holder to conduct any independent investigation or search to confirm the death of the apparent owner.
- 3) **EXAMPLE:** If a holder learns that an apparent owner is listed on the Social Security Administration's Death Master File (DMF) and the holder is satisfied that the presumption of death from such a match is correct, then the holder does not need to independently confirm the death of the apparent owner.

**Section 760.300 Apparent Owner Interest**

- a) Under Section 15-210(a) of the Act *the period after which property is presumed abandoned is measured from the later of:*
  - 1) *the date the property is presumed abandoned under the Act; or*
  - 2) *the latest indication of interest by the apparent owner in the property.*
- b) *Under Section 15-210(b) of the Act, an indication of an apparent owner's interest in property includes, but is not limited to:*
  - 1) *a record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;*
  - 2) *an oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;*
  - 3) *presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an account, underlying security, or interest in a business association;*
  - 4) *activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase,*

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*decrease, or otherwise change the amount or type of property held in the account;*

- 5) *a deposit into or withdrawal from an account at a financial organization, except for a recurring ACH debit or credit previously authorized by the apparent owner or an automatic reinvestment of dividends or interest; and*
  - 6) *subject to Section 15-210(e) of the Act, payment of a premium on an insurance policy.*
- c) Owner-initiated Activity. Owner-initiated financial transactions or authenticated owner-initiated administrative activity are an indication of an apparent owner's interest in the property. A holder must maintain a record of owner-initiated activity. These include, without limitation:
- 1) trading activity in the account;
  - 2) depositing funds into the account or withdrawing funds from the account;
  - 3) non-automated electronic distributions;
  - 4) contacting the holder to discuss any account related matters;
  - 5) sending the holder paperwork or documents related to the account;
  - 6) meeting with (or otherwise interacting with) a financial advisor regarding the account;
  - 7) modifying the account profile;
  - 8) sending the holder correspondence regarding the account whether via mail or electronic means, including e-mail;
  - 9) submitting an account service request online;
  - 10) voting a proxy;
  - 11) setting up the account for e-delivery;

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- 12) accessing the account via the holder's website or other electronic means;  
and
  - 13) the initial authorizing of automatic payments or distributions from the account by the apparent owner.
- d) Activity that Does Not Show Apparent Owner Interest. Apparent owner interest is distinguishable from holder-generated activity such as, without limitation, crediting dividends, posting account fees, and mailing account statements, which does not constitute apparent owner interest.
- 1) Automatic financial or administrative transactions or activity, such as automatic payments or distributions or automatic portfolio rebalancing, shall not be considered apparent owner interest.
  - 2) Non-return of Mail
    - A) Non-return of mail sent by the holder to an account owner does not constitute apparent owner interest.
    - B) RPO Standard
      - i) Despite the general rule that non-return of mail does not constitute apparent owner interest, certain types of property are considered abandoned when first-class mail is returned undelivered to the holder by the U.S. Postal Service. This is commonly referred to as an RPO standard and is used in Sections 15-202, 15-204 and 15-208 of the Act.
      - ii) When an RPO standard is used in the Act, the non-return of mail still does not constitute apparent owner interest. Instead, the presumption of abandonment is triggered by the return of the mail instead of by the passage of time without apparent owner interest.
      - iii) In Section 15-208 of the Act, a security is presumptively abandoned on the earlier of 3 years after an RPO standard is met or 5 years from the last indication of interest by the apparent owner. The non-return of mail does not constitute

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apparent owner interest for the 5-year presumption under Section 15-208 of the Act.

- e) Interest by a Person Other Than the Apparent Owner
  - 1) *An action by an agent or other representative of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner. [765 ILCS 1026/15-210(c)]*
  - 2) *A communication with an apparent owner by a person other than the holder or the holder's representative is not an indication of interest in the property by the apparent owner unless a record of the communication evidences the apparent owner's knowledge of a right to the property. [765 ILCS 1026/15-210(d)]*
  - 3) If an apparent owner is deceased, apparent owner interest shall include, but is not limited to, activity of beneficiaries and estate executors or other persons who have a legal or equitable right to ownership or custody of the property.
- f) Consolidated Statement Rule for Financial Organizations
  - 1) *If the apparent owner has another property with the holder to which Section 201(6) of the Act applies, then activity directed by an apparent owner in any other accounts, including loan accounts, at a financial organization holding an inactive account of the apparent owner shall be an indication of interest in all such accounts if the apparent owner engages in one or more of the following activities:*
    - A) *the apparent owner undertakes one or more of the actions described in this Section regarding any account that appears on a consolidated statement with the inactive account;*
    - B) *the apparent owner increases or decreases the amount of funds in any other account the apparent owner has with the financial organization; or*

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- C) *the apparent owner engages in any other relationship with the financial organization, including payment of any amounts due on a loan.*
- 2) This subsection (f) *applies so long as the mailing address for the apparent owner in the financial organization's books and records is the same for both the inactive account and the active account.* [765 ILCS 1026/15-210(f)]

**Section 760.310 Anti-Limitations Provision**

- a) *Expiration of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute, or court order, does not prevent the property from being presumed abandoned or affect the duty of a holder under the Act to file a report or pay or deliver property to the administrator.* [765 ILCS 1026/15-610(a)]
- b) This provision of the Act is a continuation of existing Illinois law. Under the common law in Illinois, contracts could not serve as a limitation on the ability of the State to take custody of unclaimed property. (See *People ex rel. Callahan v. Marshall Field & Co.*, 83 Ill. App. 3d 811, 818, 404 N.E.2d 368, 374 (1980) citing *Connecticut Mutual Life Insurance Co. v. Moore*, 333 U.S. 541 (1948); *Screen Actors Guild, Inc. v. Cory* (1979), 91 Cal. App. 3d 111, 154 Cal. Rptr. 77; and *State v. Jefferson Lake Sulphur Co.* (1962), 36 N.J. 577, 178 A.2d 329.)

## SUBPART C: REPORTING

**Section 760.400 Holder Reporting Required**

- a) A holder of property presumed abandoned shall report to the administrator via the internet in a format approved by the administrator, unless granted written permission by the administrator to file a paper report.
- b) A holder may contract with a third party to make the report required, but remains responsible to the administrator for the complete, accurate, and timely reporting of property presumed abandoned and for paying or delivering to the administrator property described in the report.

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- c) The administrator will accept a report filed in the current National Association of Unclaimed Property Administrators (NAUPA) standard format found on the administrator's website: [icash.illinoistreasurer.gov](http://icash.illinoistreasurer.gov).

**Section 760.410 Report Contents**

- a) The report required by Article 4 of the Act must:
- 1) *be signed by or on behalf of the holder and verified as to its completeness and accuracy;*
  - 2) *if filed electronically, be in a secure format approved by the administrator that protects confidential information of the apparent owner;*
  - 3) *describe the property;*
  - 4) *except for a traveler's check, money order, or similar instrument, contain the name, if known, last-known address, if known, e-mail address, if known, and Social Security number or taxpayer identification number, if known or readily ascertainable, of the apparent owner of property with a value of \$5 or more;*
  - 5) *for an amount held or owing under a life or endowment insurance policy, annuity contract, or other property in which ownership vests in a beneficiary upon the death of the owner, contain the name and last-known address of the insured, annuitant, or other apparent owner of the policy or contract and of the beneficiary;*
  - 6) *for property held in or removed from a safe deposit box, indicate the location of the property, where it may be inspected by the administrator, and any amounts owed to the holder under Section 15-606 of the Act;*
  - 7) *combine all dividend checks into one property for each reported account;*
  - 8) *contain the commencement date for determining abandonment;*
  - 9) *state that the holder has complied with the notice requirements of the Act;*  
*and*

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- 10) *identify property that is a non-freely transferable security and explain why it is a non-freely transferable security.*
- b) Holders may report property valued at less than \$5 each in the aggregate. However, the administrator may request that the holder provide information about the name, address, Social Security number or taxpayer identification number of an apparent owner of property with a value of less than \$5 when the information is necessary to verify or process a claim filed with the administrator by an apparent owner.
- c) *If a holder has changed its name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder must include in the report its former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property. [765 ILCS 1026/15-402(d)]*

**Section 760.420 Filing Dates**

- a) Financial organizations, governments, governmental entities, and insurance companies except life insurance companies must file a report before November 1 of each year that covers the 12 months preceding July 1 of that year.
- b) All other business associations must file before May 1 of each year for the immediately preceding calendar year.

**Section 760.430 Early Reporting and Remittance of Property**

- a) *A holder may pay or deliver property to the administrator before the property is presumed abandoned under the Act if the holder:*
  - 1) *provides the apparent owner of the property any notice required by Section 15-501 of the Act and provides the administrator evidence of the holder's compliance with any notice required by the Act;*
  - 2) *includes with the payment or delivery a report regarding the property conforming to the Act and this Section; and*
  - 3) *first obtains the administrator's written consent to accept payment or delivery of the property.*

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- b) *A holder's request for the administrator's consent to remit or deliver property before the property is presumed abandoned under the Act must be in writing.*
- c) *If the administrator fails to respond to the request not later than 30 days after receipt of the request, the administrator is deemed to consent to the payment or delivery of the property and the payment or delivery is considered to have been made in good faith.*
- d) *On payment or delivery of property under this Section, the property is presumed abandoned. [765 ILCS 1026/15-608]*
- e) *A holder that pays or delivers property to the administrator pursuant to Section 15-608 of the Act in good faith and substantially complies with Sections 15-501 and 15-502 of the Act is relieved of all liability that thereafter may arise or be made in respect to the property to the extent of the value of the property so paid or delivered. [765 ILCS 15-604(a)]*

**Section 760.440 Extensions**

- a) A holder may request an extension for filing. The request must be in writing and must specify the proposed period of extension.
- b) The request must include a reasonable cause for an extension.
  - 1) Reasonable cause includes, without limitation, natural disaster, criminal activity related to the holder's books and records, recent changes in the form of ownership of the holder, etc.
  - 2) Providing due diligence notices to apparent owners and other holder actions required by the Act does not constitute reasonable cause.
- c) Extension requests must be received by the administrator at least 15 business days before the date the report would otherwise be due.
- d) Not later than 10 business days after the date of the request, the administrator shall respond to the request. The administrator may grant the request, deny the request, or grant an extension for a different period of time.

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- e) *If an extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid. [765 ILCS 1026/15-403(c)]*

**Section 760.450 Incomplete and Rejected Reports**

If the administrator notifies a holder that a report is incomplete or incorrect, then a corrected report must be filed by the holder no later than 20 calendar days after notification by the administrator. The administrator may grant an extension in writing for reasonable cause.

**Section 760.460 Due Diligence Notice by Holder**

- a) Sections 15-501 and 15-502 of the Act specify when and how a holder must provide notice to the apparent owner of property presumed abandoned. This notice process is a "due diligence notice" from the holder to the apparent owner. A due diligence notice is intended to provide an opportunity for an apparent owner to indicate interest in the property presumed abandoned prior to such property being reported and remitted to the administrator.
- b) Unless otherwise provided by the Act or these rules, the holder of property presumed abandoned shall send to the apparent owner a due diligence notice by first-class U.S. Mail between 60 days and one year before reporting the property (see 765 ILCS 1026/15-501(a)).
- c) A holder does not need to send notice by first-class U.S. Mail if any of the following are true:
- 1) the property is valued at less than \$50;
  - 2) the holder does not have in its records an address for the apparent owner that is sufficient for delivery of first-class U.S. Mail;
  - 3) the holder's records indicate that the address for the apparent owner is invalid; or,
  - 4) the holder sends notice by certified U.S. Mail.

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- d) If the holder has in its records an e-mail address for an apparent owner and the apparent owner has consented to receive e-mail from the holder, then unless the holder believes the e-mail address is invalid, the holder shall send a due diligence notice by e-mail to the apparent owner in addition to any other due diligence notice required by the Act (see 765 ILCS 1026/15-501(b)).
- e) Certified Mail Due Diligence for Securities Valued at \$1,000 or More
  - 1) If the property presumed abandoned is securities valued at \$1,000 or more and the holder has in its records an address for the apparent owner that the holder's records do not disclose to be invalid and is sufficient to direct the delivery of U.S. Mail to the apparent owner, then the due diligence notice shall be sent by certified U.S. Mail (see 765 ILCS 1026/15-501(c)). If the apparent owner is a natural person, then the holder should utilize Certified Mail Restricted Delivery to direct the due diligence notice to the apparent owner or the apparent owner's authorized agent.
  - 2) If the holder sends a due diligence notice by certified mail, then the holder does not need to send a due diligence notice by first-class U.S. Mail.
  - 3) A signed return receipt in response to a notice sent by certified U.S. Mail shall constitute a record communicated by the apparent owner to the holder concerning the property or the account in which the property is held, and thus shall constitute an indication of interest by the apparent owner in the property under Section 15-210 of the Act.
- f) A holder may contract with a third party to provide the required due diligence notice to an apparent owner under the Act and these rules.
  - 1) Whether or not the holder contracts with a third party to provide required due diligence notices, the holder remains responsible for ensuring that any required due diligence notices are provided prior to the reporting and remitting of property presumed abandoned to the administrator.
  - 2) If a holder contracts with a third party to provide required due diligence notices and the due diligence notice is being sent after the date the property was presumed abandoned under the Act, then, pursuant to Section 15-1302 of the Act, neither the holder nor the third party may charge the apparent owner a fee to indicate an interest in property

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presumed abandoned or to otherwise prevent the reporting and remitting of property presumed abandoned to the administrator.

- g) Contents of Due Diligence Notice
- 1) A due diligence notice by a holder must contain a heading that reads substantially as follows: "Notice. The State of Illinois requires us to notify you that your property may be transferred to the custody of the State Treasurer if you do not contact us before (insert date that is 30 days after the date of this notice)."
  - 2) A due diligence notice by a holder must:
    - A) identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;
    - B) state that the property will be turned over to the State Treasurer;
    - C) state that after the property is turned over to the State Treasurer an apparent owner that seeks return of the property may file a claim with the State Treasurer;
    - D) state that property that is not legal tender of the United States may be sold by the State Treasurer;
    - E) provide instructions that the apparent owner must follow to prevent the holder from reporting and paying or delivering the property to the State Treasurer; and,
    - F) provide the name, address, and e-mail address or telephone number to contact the holder.
  - 3) In a due diligence notice, the holder may also list a website where apparent owners may obtain more information about how to prevent the holder from reporting and paying or delivering the property to the State Treasurer.
- h) Holder Deduction of Costs of Due Diligence Notices

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- 1) A holder that reports and remits money may deduct from total amounts remitted, the actual costs of due diligence notices.
- 2) The deduction shall consist of the cost of envelopes, postage, and stationery. No other costs may be deducted.
- 3) For purposes of holder deductions for due diligence mailings, postage includes amounts paid to the United States Postal Service for first class United States mail and certified United States mail.
- 4) A holder may be required to document or certify to the costs incurred and deducted.

**Section 760.470 Retention of Records by Holder**

- a) A holder is required to *retain records for 10 years after the later of the date the report was filed or the last date a timely report was due to be filed.*
- b) *The records must contain:*
  - 1) *the information required to be included in the report;*
  - 2) *the date, place, and nature of the circumstances that gave rise to the property right;*
  - 3) *the amount or value of the property;*
  - 4) *the last address of the apparent owner, if known to the holder;*
  - 5) *sufficient records of items that were not reported as unclaimed, to allow examination to determine whether the holder has complied with the Act [765 ILCS 1026/15-404];*

EXAMPLE: Records related to property when the holder *gave express notice to the administrator of a dispute regarding the property.* [765 ILCS 1026/15-610(b)]; and

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- 6) *a record of the instruments while they remain outstanding indicating the state and date of issue if the holder sells, issues, or provides to others for sale or issue in this State traveler's checks, money orders, or similar instruments, other than third-party bank checks, on which the holder is directly liable. [765 ILCS 1026/15-404].*
- c) If a holder fails to maintain records required by Section 15-404 of the Act, *the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards in this Part.*
- d) Both the records retention period of Section 15-404 of the Act and the statute of limitations in Section 15-610(b) of the Act are 10 years. However, the statute of limitations only applies *after the holder specifically identified the property in a report filed with the administrator or gave express notice to the administrator of a dispute regarding the property. [765 ILCS 1026/15-610(b)]* If the statute of limitations has been tolled because the holder failed to either report property or provide express notice to the administrator and the holder fails to maintain *sufficient records of items that were not reported as unclaimed, to allow examination to determine whether the holder has complied with the Act [765 ILCS 1026/15-404(5)]*, the administrator may use estimation in an examination of that holder pursuant to Section 15-1006 of the Act and this Part.

## SUBPART D: NOTICE TO APPARENT OWNERS BY THE ADMINISTRATOR

**Section 760.500 Notices by United States Mail**

- a) The administrator shall send at least one written notice by first-class U.S. Mail to each apparent owner of unclaimed property held by the administrator and valued at \$100 or more.
- b) However, the administrator shall not send a notice under this Section by first-class U.S. Mail if the administrator reasonably believes that a mailing by first-class U.S. Mail would not be received by the apparent owner.
- c) *In the case of a security held in an account for which the apparent owner had consented to receiving e-mail from the holder, the administrator shall send notice*

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*by e-mail if the e-mail address of the apparent owner is known to the administrator, instead of by first-class U.S. Mail. [765 ILCS 1026/15-503(b)(1)]*

**Section 760.510 E-Mail Notices**

- a) Whenever the administrator has an e-mail address for an apparent owner of unclaimed property held by the administrator and valued at \$100 or more and the administrator does not know that e-mail address to be invalid, the administrator shall send at least one notice to the apparent owner by e-mail if the administrator did not send a written notice by first-class U.S. Mail. (See 765 ILCS 1026/15-503(b)(2).)
- b) In addition to any notice mandated by the Act, the administrator may send an additional notice to an apparent owner to any e-mail address for the apparent owner that the administrator does not know to be invalid.
- c) When practicable, e-mail notices from the administrator shall provide a hyperlink to the website maintained by the administrator.

**Section 760.520 Newspaper Notices**

- a) *At least once every 6 months, the administrator shall cause to be published in at least one English language newspaper of general circulation in each county in this State a notice concerning the unclaimed property program.*
- b) *The newspaper notice shall include the following information:*
  - 1) *the total value of property received statewide by the administrator during the preceding 6-month period;*
  - 2) *the total value of claims paid by the administrator statewide during the preceding 6-month period;*
  - 3) *the address of the unclaimed property website maintained by the administrator;*
  - 4) *a telephone number and e-mail address to contact the administrator to inquire about or claim property; and*

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- 5) *a statement that computers may be available at a local public library to search for unclaimed property. [765 ILCS 1026/15-503(c)(1)]*
- c) The administrator may contract with a vendor to cause to be published the required newspaper notices. A contract concerning newspaper notices may, but is not required to, be part of a more comprehensive marketing services contract or specific contract.
- d) Newspaper notices may include other information at the discretion of the administrator.
- e) The administrator may cause additional notices or advertisements to be published in newspapers and print publications other than the required notices. The additional notices do not need to contain the mandatory information listed in subsection (b).

**Section 760.530 Website**

- a) *The administrator shall maintain a website accessible by the public and electronically searchable that contains the names reported to the administrator of apparent owners for whom property is being held by the administrator.*
- b) *The administrator does not need to list property on the unclaimed property website when:*
- 1) *no owner name was reported;*
  - 2) *a claim has been initiated or is pending for the property;*
  - 3) *the administrator has made direct contact with the apparent owner of the property; and*
  - 4) *in other instances in which the administrator reasonably believes exclusion of the property is in the best interests of both the State and the owner of the property. [765 ILCS 1026/15-503(c)(1)]*
- c) *The administrator's unclaimed property website shall include an online claim form and instructions for filing a claim with the administrator. The administrator*

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*shall also make available a printable claim form with instructions for its use.* [765 ILCS 1026/15-503(d)]

- d) *The administrator may include on the website the names and addresses of apparent owners of property held by the administrator.* [765 ILCS 1026/15-1401(d)]
- e) In addition to the required website, the administrator may utilize other websites, including any websites endorsed by the National Association of Unclaimed Property Administrators (NAUPA), to promote the unclaimed property program and seek to reunite owners with their unclaimed property.

**Section 760.540 Tax Return Identification of Apparent Owners**

The administrator will work with the Illinois Department of Revenue (DOR) to facilitate the return of unclaimed property to Illinois taxpayers through data sharing as required by the Act. This data sharing is intended to update contact information for apparent owners in the administrator's records, to allow the administrator to return some types of unclaimed property directly to apparent owners without a claim being filed, and to otherwise facilitate the return of unclaimed property in the custody of the administrator to the legal owners.

**Section 760.550 Updating Apparent Owner Data**

- a) The administrator may utilize publicly and commercially available databases, as well as information obtained through data sharing agreements authorized by the Act, to find and update or add information for apparent owners of property held by the administrator.
- b) The administrator may, but is not required to, update or add a mailing address or e-mail address for an apparent owner prior to sending notices required by the Act.
- c) If a required notice has already been sent by the administrator, the administrator does not need to send a new written notice merely because a mailing address or e-mail address for an apparent owner has been subsequently updated or added.

**Section 760.560 Other Discretionary Means of Providing Notice**

- a) Paid Advertising

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- 1) The administrator may use paid advertising to increase awareness of the unclaimed property program, provide notice to persons who may be the owners of unclaimed property in the custody of the administrator, or to otherwise facilitate the return of unclaimed property to legal owners.
  - 2) Any paid advertising shall conform to the requirements of Section 5-20 of the State Officials and Employees Ethics Act [5 ILCS 430].
- b) Direct Contact
- 1) The administrator may use contact information reasonably believed to be accurate to attempt to directly contact apparent owners of property held by the administrator.
  - 2) When directly contacting an apparent owner, the administrator may reveal additional information concerning the apparent owner's property if the administrator believes the information will assist in identifying and returning property to the owner and does not disclose personal information as defined in the Personal Information Protection Act [815 ILCS 530].
  - 3) Direct contacts include, but are not limited to, telephone calls, in-person meetings, direct electronic communications, targeted social media contacts, and similar methods of contact.
- c) Broadcast Media
- 1) The administrator may make agreements with broadcast media outlets to use live telethons, call-in programs, and similar events of limited duration to both promote the unclaimed property program authorized by the Act and to notify owners of the existence of unclaimed property.
  - 2) These broadcasts should be considered the dissemination of news and should not be considered a public service announcement or advertisement.
- d) Contractual Vendors
- 1) The administrator may contract with one or more vendors that provide websites, including any websites endorsed by the National Association of Unclaimed Property Administrators (NAUPA), to promote the unclaimed

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property program and seek to reunite owners with their unclaimed property.

- 2) The administrator may contract with one or more vendors that provide applications to assist apparent owners in identifying and claiming property in the custody of the administrator. The vendors shall be selected by a competitive request for proposals pursuant to the Office of the Treasurer Procurement Rules [44 Ill. Adm. Code 1400]. Compensation must conform with the restrictions in Article 13 of the Act concerning agreements to locate property of apparent owners held by the administrator.

**Section 760.570 Confidentiality**

*The administrator may include in published notices, printed publications, telecommunications, the Internet, or other media and on the website or in the database additional information concerning the apparent owner's property if the administrator believes the information will assist in identifying and returning property to the owner and does not disclose personal information as defined in the Personal Information Protection Act [815 ILCS 530]. [765 ILCS 1026/15-1401(d)]*

## SUBPART E: CLAIMS

**Section 760.600 Claims**

*A person claiming to be the owner of property held under the Act by the administrator or of the proceeds from the sale of property may file a claim for the property or proceeds from the sale of property on a form prescribed by the administrator and that is available on the Administrator's website at [icash.illinoistreasurer.gov](http://icash.illinoistreasurer.gov). [765 ILCS 1026/15-903]*

**Section 760.610 Burden of Proof**

- a) The administrator is the custodian for property delivered to the State under the Act and is responsible for the safekeeping of that property. Therefore, any person who files a claim for any property held by the administrator pursuant to the Act shall bear the burden of proof in establishing that person is the lawful owner of the property or has an interest in the property.

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- b) The administrator will release the property to a claimant after the person establishes his or her ownership of the property or an interest in the property by a preponderance of the evidence.
- c) Notwithstanding the requirements of subsection (a) and (b), the administrator may waive those requirements if a claimant satisfies the requirements for payment or delivery of property under Section 760.620 or 760.630.

**Section 760.620 Filing of Claims**

- a) Claimants may file claims with the administrator either in writing on forms prescribed by the administrator or through completion of a form on the administrator's website.
- b) Claims shall be verified or signed by the claimant under penalty of perjury.
- c) If the subject property is valued at more than \$500, the signatures of the claimants shall be notarized by a notary public or be guaranteed by an officer of a bank or financial institution with which the claimants currently do business.
- d) If the value of the subject property is less than \$500:
  - 1) a fully completed owner claim and owner indemnification form, submitted to the administrator either in writing or through completion of a form on the administrator's website, will be accepted as prima facie evidence of validity of the claim, unless the administrator has facts within his or her knowledge that would tend to rebut the claim; and
  - 2) the administrator may waive the requirement to complete a claim form and may pay or deliver property directly to a claimant if the person receiving the property is shown to be the apparent owner of the property included on a report filed pursuant to the Act, and the administrator reasonably believes the claimant is entitled to receive the property or payment.
- e) If the property being claimed is a two-party check, in addition to submitting a fully completed claim form, the claimant must:
  - 1) submit the original check;

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- 2) submit verification in the form of an affidavit from the issuing agent of the check that the claimant is the true owner of the check and the issuing agent would then pay the value of the check to the claimant if the issuing agent had not remitted the funds to the administrator;
- 3) post a surety bond, issued by an insurance company with an A+ or A rating by A.M. Best and Company, in the amount of the check;
- 4) submit a release of interest executed by all persons not claiming the property who were listed as apparent owners by the holder;
- 5) submit an order from a court of competent jurisdiction indicating the claimant is the owner of the unclaimed property; or
- 6) submit an indemnification form if the administrator does not have facts within its knowledge that would tend to rebut the claim and all the following apply:
  - A) the original check is missing or has been destroyed;
  - B) the original check is older than 14 years;
  - C) incomplete information was reported by the holder and is no longer obtainable; and
  - D) the amount of the two-party check is \$500 or less.
- f) A claim will be considered complete when a claimant has provided all the information and documentation requested by the administrator as necessary to establish legal ownership and that information or documentation is entered into the unclaimed property system. Unless extended for reasonable cause, the administrator shall issue a decision no later than 90 days after a claim is complete.
- g) If a claimant is unable to provide documentation sufficient to establish ownership by a preponderance of the evidence, the claimant may request that the administrator formally deny the claim in order to allow the claimant to commence a contested case, pursuant to Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100], for review of the administrator's decision.

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- h) Closing Claims
  - 1) If a claimant fails to provide information and documentation necessary to establish legal ownership of the property by a preponderance of the evidence and the claim is inactive for at least 90 days, the administrator may close the claim without issuing a final decision.
  - 2) If the claimant makes a request in writing for a final decision prior to the administrator's closing of the claim, the administrator shall issue a final decision.
  - 3) If, after a claim is closed, a claimant subsequently provides additional information or documentation concerning the same property, the administrator shall open a new claim and shall incorporate by reference all information and documentation provided for the closed claim.
- i) *Not later than one year after filing a claim, a claimant may commence a contested case pursuant to the Illinois Administrative Procedure Act to establish a claim by the preponderance of the evidence after either receiving notice of the denial from the administrator or the claim is deemed denied. [765 ILCS 1026/15-906]*

**Section 760.630 Tax Return Identification of Apparent Owners**

- a) *At least annually the administrator shall notify the Illinois Department of Revenue of the names of apparent owners of abandoned property.*
  - 1) *The administrator shall also provide to DOR the social security numbers of apparent owners of abandoned property, if available. [765 ILCS 1026/15-503(e)]*
  - 2) The administrator may also provide DOR with other data, such as the mailing address of the apparent owner.
  - 3) The administrator shall not provide DOR with the name of an apparent owner of unclaimed property if a claim has been filed for that property with the administrator and the claim has not been denied or closed.
  - 4) The administrator does not need to notify DOR of the names or social security numbers of apparent owners of abandoned property if he or she

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reasonably believes that DOR will be unable to provide information that would provide sufficient evidence to establish that the person in DOR's records is the apparent owner of unclaimed property in the custody of the administrator.

- 5) **EXAMPLE:** The administrator does not need to notify DOR of the name of an apparent owner of unclaimed property in the custody of the administrator when:
  - A) the administrator has previously notified DOR of the name of an apparent owner, DOR was unable to match the name to any person in DOR's records, and the administrator reasonably believes that DOR would continue to not be able to match the name;
  - B) the administrator's records contain the name of an apparent owner without an address or social security number and that name is so common as to prevent a unique match with DOR records;
  - C) the administrator has reason to believe that the apparent owner is deceased; or
  - D) even if DOR provided a current address for the apparent owner, the administrator would not be able to deliver the unclaimed property to that owner because the property is jointly owned, is an escrow account, or has other legal impediments to clear ownership of the property by a unique owner.
- b) DOR shall notify the administrator if any person matching the name of an apparent owner has filed an Illinois income tax return and shall provide the administrator with the last known address and/or additional addresses of the person as it appears in DOR records, except as prohibited by federal law.
- c) The administrator may deliver property or pay the amount owing to a person matched under this Section without the person filing a claim if the following conditions are met:
  - 1) the value of each individual property that is owed the apparent owner is \$2,000 or less;

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- 2) the property is not either tangible property or securities;
  - 3) there are no legal impediments to delivering the property or paying the amount owed to a unique apparent owner;
  - 4) the last known address for the apparent owner according to DOR records is less than 12 months old; and
  - 5) the administrator has evidence sufficient to establish that the person who appears in DOR records is the owner of the property and the owner currently resides at the last known address from DOR.
- d) If the name, address and social security number of the apparent owner in the records of the administrator and DOR match, there is a presumption that the administrator has sufficient evidence to deliver property or pay the amount owing to the apparent owner.
- e) *After receiving a match from DOR, the administrator may use additional databases to verify the identity of the person and that the person currently resides at the last known address. The administrator may utilize publicly and commercially available databases to find and update or add information for apparent owners of property held by the administrator. [765 ILCS 1026/15-503(f)]*
- f) In determining whether there is sufficient evidence to deliver property or pay the amount owing to the apparent owner, the administrator may rely upon evidence beyond the match provided by DOR.
- g) When the name of an apparent owner has a unique match with DOR records and the property owed to the apparent owner is greater than \$2,000, or is tangible property or securities, the administrator shall provide notice to the person, informing the person that he or she is the owner of abandoned property held by the State and may file a claim with the administrator for return of the property. The administrator may provide the notice by email, U.S. Mail, telephone, direct contact, or any combination of these methods.

**Section 760.640 Crediting Income or Gain to Owner's Account**

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- a) *If property other than money is delivered to the administrator, the owner is entitled to receive from the administrator income or gain realized or accrued on the property before the property is sold. [765 ILCS 1026/15-607(a)] (See Canel v. Topinka, 212 Ill. 2d 311, 818 N.E.2d 311 (2004).)*
- b) *The administrator will pay interest on an interest-bearing demand, savings, or time deposit paid or delivered to the administrator after July 1, 2018.*
- c) *The interest shall be paid to the owner at the lesser of:*
  - 1) *The percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) as reported by the U.S. Department of Labor Bureau of Labor Statistics for all items; or*
  - 2) *The rate the property earned while in the possession of the holder and reported to the administrator.*
- d) *Interest begins to accrue when the property is delivered to the administrator and ends on the earlier of the expiration of 10 years or when payment is made to the owner. [765 ILCS 1026/15-607(c)]*
- e) Interest shall accrue monthly at the applicable rate.
- f) If the holder does not report a rate of interest earned by the property while in the possession of the holder, the administrator will not pay interest. The Act requires the administrator to pay the lower of the reported interest rate or the current CPI. If no interest is reported, the lower rate will be zero.

**Section 760.650 Finders**

- a) No person or company shall be entitled to a fee for discovering presumptively abandoned property until it has been in the custody of the administrator for at least 24 months. Fees for discovering property that has been in the custody of the administrator for more than 24 months shall be limited to not more than 10% of the amount collected. (See 765 ILCS 1026/15-1302.)
- b) Notwithstanding anything in this Section to the contrary, a licensed attorney may *pursue a claim for recovery of specifically identified property held by the administrator or to contest the administrator's denial of a claim for recovery of*

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*the property* provided he or she has an attorney-client relationship with the apparent owner. [765 ILCS 1026/15-1302(f)]

- c) For claims in which a finder is assisting an apparent owner, the following shall be submitted to the administrator:
  - 1) a signed, dated and notarized copy of the contract between the finder and the apparent owner that satisfies the requirements of the Act, specifies the obligations of the parties, and establishes the fee arrangement between the finder and claimant; and
  - 2) if the finder charges a contingent fee, a copy of the active private detective license issued by the Illinois Department of Financial and Professional Regulation to the finder.

**Section 760.660 Property Subject to Recovery by Another State**

- a) If the administrator is aware that property held under the Act is subject to a superior claim of another state, the administrator shall either report and deliver the property to the other state or return the property to the holder for delivery to the other state.
- b) A claim by another state to recover property under this Section must be presented in a form prescribed by the administrator, unless the administrator waives presentation of the form.
- c) The administrator shall decide a claim under this Section not later than 90 days after it is presented.
- d) To the extent permitted under the law of the other state, the administrator may require another state to agree to indemnify the administrator and the State of Illinois and its agents, officers and employees against any liability on a claim to the property.

**Section 760.670 Debt Collection Agencies**

- a) A debt collection agency shall initiate its own claims for unclaimed property in the custody of the administrator. The administrator will not initiate claims for debt collection agencies.

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- b) Debt collection agencies shall submit citations to discover assets to the administrator at least 30 days in advance of the return date.
- c) Unclaimed property held by the administrator for a debtor will be held pursuant to a citation to discover assets for up to 90 days.
- d) Claims submitted by debt collection agencies will be closed after 90 days without the submission of a valid turnover order from a court of competent jurisdiction.
- e) Claims submitted by debt collection agencies will be paid after receipt of a valid turnover order from a court of competent jurisdiction.

**Section 760.680 Holder Reimbursement**

- a) *A holder that pays money to the administrator may file a claim for reimbursement from the administrator of the amount paid if the holder:*
  - 1) *paid the money in error; or*
  - 2) *after paying the money to the administrator, paid money to a person the holder reasonably believed entitled to the money.*
- b) *If a claim for reimbursement is made for a payment made on a negotiable instrument, including a traveler's check, money order, or similar instrument, the holder must submit proof that the instrument was presented and payment was made to a person the holder reasonably believed entitled to payment. The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute or court order.*
- c) *If a holder is reimbursed by the administrator, the holder may also recover any income or gain that would have been paid by the administrator to the owner on an owner claim provided the holder paid the earned income or gain to the owner.*
- d) *A holder that delivers property other than money to the administrator may file a claim for return of the property from the administrator if:*
  - 1) *the holder delivered the property to the administrator in error; or*

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- 2) *the apparent owner has claimed the property from the holder.*
- e) *If a claim for return of property is made, the holder shall include with the claim evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the administrator in error.*
- f) *The administrator may make a determination that an affidavit submitted by a holder is evidence sufficient to establish that the holder is entitled to reimbursement or to recover property under this Section.*
- g) *A holder is not required to pay a fee or other charge for reimbursement or return of property.*
- h) *The administrator shall allow or deny a holder's claim not later than 90 days after the claim is complete and give the holder notice in a record of the decision. The administrator may grant an extension for reasonable cause.*
- i) *A claim will be considered complete when a holder has provided all the information and documentation requested by the administrator as necessary to establish legal ownership and that information or documentation is entered into the administrator's unclaimed property system.*
- j) *If a holder fails to provide all the information and documentation requested by the administrator as necessary to establish legal ownership of the property and the claim is inactive for at least 90 days, the administrator may close the claim without issuing a final decision. However, if the claimant makes a request in writing for a final decision prior to the administrator's closing of the claim, the administrator shall issue a final decision.*
- k) *The holder may initiate a proceeding under Article 10 of the Illinois Administrative Procedure Act for review of the administrator's decision on the earlier of 30 days following receipt of the notice of the administrator's decision or 120 days following the filing of a claim. [765 ILCS 1026/15-605]*

**Section 760.690 Securities Sale and Claims**

- a) Sale of Securities

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- 1) The administrator may not sell a security prior to attempting to provide notice as provided for in Section 15-503 of the Act.
- 2) Unless the administrator reasonably determines it would be in the best interests of the owner for the sale to occur sooner, the administrator may not sell or otherwise liquidate a security until 3 years after the administrator receives the security.
  - A) Instances in which it would be in the best interest of the owner for a sale of securities to occur prior to the expiration of the 3-year period include, without limitation: responding to a tender offer; a bankruptcy filing; a business liquidation; and instances in which fees will significantly deplete the value.
  - B) If the administrator sells a security prior to the expiration of the 3-year period, the administrator shall document in a record the reasons for the sale.
- 3) Unless otherwise provided in the Act or this Part, the administrator may sell a security at any time after 3 years after the administrator receives the security.
  - A) *The administrator may not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale.*
  - B) *The administrator may sell a security not listed on an established exchange by any commercially reasonable method. [765 ILCS 1026/15-702(b)]*
- 4) Securities will not be sold when a claim has been filed with the administrator by an apparent owner for those securities.
  - A) However, the apparent owner may direct the administrator to dispose of the securities by sale and remit the net proceeds to the apparent owner.

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- B) Upon denial of a claim, the administrator may dispose of the securities as provided in the Act and this Part.
  - C) The administrator may also dispose of the securities as provided in the Act and this Part if, after being requested by the administrator, the apparent owner fails to provide necessary and sufficient information to allow the administrator to transfer the securities within 30 days after the administrator's request.
- b) *Recovery of Securities or Value by Owner*
- 1) *If the administrator sells a security before the expiration of 3 years after delivery of the security to the administrator, an apparent owner that files a valid claim under the Act for the security before the 3-year period expires is entitled, at the option of the owner, to receive:*
    - A) *replacement of the security;*
    - B) *the market value of the security at the time the claim is filed, plus dividends, interest, and other increments on the security up to the time the claim is paid; or*
    - C) *the net proceeds of the sale of the security, plus dividends, interest, and other increments on the security up to the time the security was sold. [765 ILCS 1026/15-703(a)]*
  - 2) *Replacement of the security or calculation of market value under subsection (b)(1) must take into account a stock split, reverse stock split, stock dividend, or similar corporate action. [765 ILCS 1026/15-703(b)]*
  - 3) *A person that makes a valid claim under the Act for a security after expiration of 3 years after delivery of the security to the administrator is entitled to receive:*
    - A) *the security the holder delivered to the administrator, if it is in the custody of the administrator, plus dividends, interest, and other increments on the security up to the time the administrator delivers the security to the person; or*

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- B) *the net proceeds of the sale of the security, plus dividends, interest, and other increments on the security up to the time the security was sold.* [765 ILCS 1026/15-703(c)]

## SUBPART F: EXAMINATIONS

**Section 760.700 Authority**

Pursuant to the Act the administrator may, at reasonable times and on reasonable notice, *examine the records of any person to determine whether the person has complied with the Act even if the person believes it is not in possession of any property that must be reported, paid, or delivered under the Act.* [765 ILCS 1026/15-1002(1)]

**Section 760.710 Purpose**

- a) The goal of an unclaimed property examination shall be to determine whether a person is in compliance with the Act. Unclaimed property is reported to the State of Illinois pursuant to the Act and the federal common law as established by the U.S. Supreme Court (*Texas v. New Jersey*, 379 U.S. 674 (1965); *Pennsylvania v. New York*, 407 U.S. 206 (1972); and *Delaware v. New York*, 507 U.S.490 (1993)).
- b) The administrator's goal in every examination is to be predictable, fair and consistent while determining the historical compliance of the person being examined, and to encourage and facilitate that person's ongoing and future compliance with the Act.

**Section 760.720 Contract Auditors**

- a) *The administrator may contract with a person to conduct unclaimed property examinations to determine compliance with the Act. Such a contract shall be awarded pursuant to a request for proposals issued in compliance with the Office of the Treasurer Procurement Rules (44 Ill. Adm. Code 1400).* [765 ILCS 1026/15-1009(a)]
- b) *A contract to conduct an examination may provide for compensation of the person based on a fixed fee, hourly fee, or contingent fee.* [765 ILCS 1026/15-1009(b)(1)]

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- 1) *A contingent fee arrangement may not provide for a payment that exceeds 15% of the amount or value of property paid or delivered as a result of the examination. [765 ILCS 1026/15-1009(b)(2)]*
- 2) *As authorized in the State Officers and Employees Money Disposition Act [30 ILCS 230/2(a)(3.5)], the administrator may permit the deduction of fees from property recovered during an unclaimed property examination prior to depositing funds received under the Act into the Unclaimed Property Trust Fund. [765 ILCS 1026/15-1009(b)(3)]*
- c) *A contract with a person to conduct an examination is a public record under the Freedom of Information Act. [765 ILCS 1026/15-1009(c)]*
- d) An auditor shall collectively possess sufficient training and experience to adequately perform unclaimed property examinations.
- e) An auditor shall not engage in any unclaimed property examination to determine compliance with the Act without written authorization from the administrator.
- f) An auditor shall report in writing to the administrator at least monthly on the status of all unclaimed property examinations the auditor has been authorized to perform by the administrator.

**Section 760.730 Holder Advocates**

- a) A person subject to examination may retain third-party advocates to assist them in the examination process.
- b) The retention of an advocate is no basis to delay the commencement of the examination and the administrator will not delay the examination so that the advocate may conduct a review or its own audit of the books and records of the person subject to examination in advance of the administrator's examination.
- c) The administrator will, to the extent practicable, cooperate with the person subject to examination and its advocate and keep both apprised of records requests, interviews, and the progress of the audit in general.

**Section 760.740 Notice of Examination**

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- a) All unclaimed property examinations begin with an official notice of examination letter.
- b) A notice letter shall notify the person subject to examination that:
  - 1) its books and records (including those belonging to subsidiary and related entities or maintained by a third party that has contracted with the person) are subject to examination;
  - 2) identify the assigned auditor; and
  - 3) include auditor contact information.
- c) A notice letter may either be sent directly to the person subject to examination by the administrator or to the auditor assigned to the examination for delivery to the person subject to examination.

**Section 760.750 Entrance Conference**

- a) Once an examination is assigned and written notice of an examination is provided to the person subject to examination, an entrance conference will be scheduled with the auditor and representatives of the person subject to examination. A representative of the administrator may, but is not required, to participate in an entrance conference. If the person subject to examination refuses to schedule an entrance conference with the auditor, the auditor shall inform the administrator of that refusal.
- b) During the entrance conference, the auditor shall, to the extent practicable:
  - 1) identify of the types of property that will be subject to the examination and the time period covered by the examination;
  - 2) discuss an examination work plan, a tentative schedule, and any potential scoping issues;
  - 3) provide contact information for both the auditor and the administrator;
  - 4) if a draft has not been presented prior to the entrance conference, provide the person subject to examination a draft confidentiality agreement;

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- 5) notify the person subject to examination of his or her ability to request an informal conference with the administrator pursuant to Section 15-1008 of the Act;
- 6) advise the person subject to examination that the administrator and not the auditor makes determinations concerning that person's liability under the Act and that interpretations of the Act are made by the administrator;
- 7) request records and materials necessary to proceed with the next steps of the examination;
- 8) explain the requirement to provide a due diligence notice to the apparent owner of property presumed abandoned; and
- 9) explain that, unless otherwise agreed to in writing by the administrator, the person subject to examination shall remit to the auditor any unclaimed property identified during the examination that is owed to the State of Illinois.

**Section 760.760 Examination Guidelines**

- a) The auditor and the person subject to examination shall act in good faith to conduct the examination under the terms and within the time frame established in the entrance conference.
- b) During the examination, the auditor may make subsequent requests, to the person subject to examination, for additional books and records required to complete the examination.
  - 1) The auditor shall submit record requests to the person subject to examination in writing or, if the request is made verbally, shall follow up with written documentation of the request.
  - 2) Record requests shall have reasonable deadlines in order to move the examination forward and avoid unnecessary delays.

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- 3) The auditor shall provide a reasonable timeframe for the person subject to examination to respond to the request based on the type and extent of the information requested and other relevant facts and circumstances.
- 4) The auditor shall provide confirmation of receipt with reasonable projected response times to submissions received from the person subject to examination.
- c) The examination shall not be limited to a review of work papers, compilations, or record summaries prepared by the person subject to examination or an advocate, but shall include access to the original books and records deemed by the administrator to be necessary to ascertain compliance with the Act.
- d) The auditor shall properly document the examination and make the working papers gathered during the unclaimed property examination available for review by the administrator. The working papers shall include planning information and all related calculations, statistical analyses, and summarizations.

**Section 760.770 Confidentiality Agreement**

- a) A person subject to examination may require, *as a condition of disclosure of the records of the person to be examined, that the administrator, if the administrator is performing the examination, or the administrator's agent execute and deliver to the person to be examined a confidentiality agreement that:*
  - 1) *is in a form that is reasonably satisfactory to the administrator; and*
  - 2) *requires the person having access to the records to comply with the provisions of Article 14 of the Act (Confidentiality and Security of Information) applicable to the person. [765 ILCS 1026/15-1402]*
- b) If the person subject to examination and the auditor are unable to enter into a confidentiality agreement within 90 calendar days from the date an agreement reasonably satisfactory to the administrator was first presented to the person subject to the examination by the auditor or the administrator, the examination may commence without a confidentiality agreement in place and the parties shall rely on the confidentiality provisions of Article 14 of the Act.

**Section 760.780 Evidence of Unpaid Debt or Undischarged Obligation**

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- a) *A record of a person subject to examination showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation. [765 ILCS 1026/15-1005(a)]*
- b) *A person subject to examination may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the person subject to examination. [765 ILCS 1026/15-1005(b)] Thus, the prima facie evidence may be rebutted by the person subject to examination.*
- c) *A person subject to examination may overcome prima facie evidence by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:*
- 1) *issued as an unaccepted offer in settlement of an unliquidated amount;*
  - 2) *issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected;*
  - 3) *issued to a party affiliated with the issuer;*
  - 4) *paid, satisfied, or discharged;*
  - 5) *issued in error;*
  - 6) *issued without consideration;*
  - 7) *issued but there was a failure of consideration;*
  - 8) *voided not later than 90 days after issuance for a valid business reason set forth in a contemporaneous record;*
- A) *for purposes of this provision "valid business reason" does not include a policy of voiding outstanding checks, drafts, or similar instruments after a specified number of days;*

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- B) a policy of automatically voiding would be tantamount to a private escheat law in violation of longstanding public policy in Illinois (see *People ex rel. Callahan v. Marshall Field & Co.*, 83 Ill. App. 3d 811, 818, 404 N.E.2d 368, 374 (1980));
  - C) this defense merely indicates that when a check, draft, or similar instrument is voided quickly, for a valid business reason (i.e., not as a private escheat law), and the reason is indicated in a contemporaneous record, there is sufficient evidence to overcome the prima facie evidence of the existence of a debt or obligation; or
- 9) *issued but not delivered to the third-party payee for a sufficient reason recorded within a reasonable time after issuance.* [765 ILCS 1026/15-1005(c)]
- d) *In asserting a defense under this Section, and subject to the records retention requirements of the Act, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner.* [765 ILCS 1026/15-1005(d)]

**Section 760.790 Estimation**

- a) *If a person subject to examination does not retain the records required by the Act, the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary.*
- b) *A payment made based on estimation under this Section is a penalty for failure to maintain the records required by the Act and does not relieve a person from an obligation to report and deliver property to a state in which the holder is domiciled.* [765 ILCS 1026/15-1006]
- c) Unless agreed to by a person subject to examination, estimation should be used only when there has been a violation of Section 15-404 of the Act. The ability of the administrator to use estimation is intended as a deterrent to the intentional or negligent destruction of records that would be used in an unclaimed property examination to identify unclaimed property.

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- d) An auditor may not use estimation in an examination unless:
- 1) the person subject to examination agrees in writing to the use of estimation as part of an audit resolution agreement; or
  - 2) the administrator approves in writing the use of estimation in the examination.
- e) Estimation by the administrator should reasonably approximate the amount of unclaimed property that should have been reported to Illinois if all reports had been filed and records had been maintained as required by the Act. Thus, estimation should attempt to determine the amount of unclaimed property that should have been reported to Illinois under Sections 15-301, 15-302, and 15-303 (addressed property) and 15-304 (unaddressed property when the holder is domiciled in Illinois).
- f) Prior to approving the use of estimation in an examination, the administrator shall:
- 1) notify the person subject to examination, in writing, that the administrator is considering the use of estimation because of a failure to maintain the records required by Section 15-404 of the Act;
  - 2) after considering any evidence submitted by the auditor and the person subject to examination, make a written determination that the person subject to examination has failed to maintain the records required by Section 15-404 of the Act;
  - 3) provide an opportunity for the person subject to examination to submit written objections, including, but not limited to:
    - A) submitting evidence that the person subject to examination has maintained sufficient records to perform the examination for some or all of the years during the time period covered by the examination; or
    - B) proposing an estimation methodology;
  - 4) notify in writing the person subject to examination of:

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- A) the estimation methodology to be used; and
- B) for which years during the time period covered by the examination estimation will be used.

**Section 760.800 Multistate Examinations**

- a) The administrator may agree to participate in an examination of a person for compliance with unclaimed property laws of multiple states, including the Act, when a single auditor performs an examination for more than one state.
- b) Multistate examinations are intended to be more efficient and effective for both the person being examined and the states that have authorized the examination. Having a single auditor conducting an unclaimed property examination reduces the occurrence of a person being simultaneously subject to multiple unclaimed property examinations by multiple auditors representing multiple states.
- c) Because different states participating in a multistate examination will have different rules for examinations, there may be conflicts between the statutory or regulatory requirements for how the auditor should conduct the examination. When practicable, the auditor should comply with the requirements of this Section when conducting a multistate examination. However, if there is a conflict between the requirements of this Section and the requirements of one or more other states, the auditor may vary from the requirements of this Section so long as the auditor:
  - 1) follows any requirements imposed by the Act, including but not limited to confidentiality requirements;
  - 2) uses the Act with regards to any property for which the State of Illinois has the superior claim pursuant to the federal common law established in the U.S. Supreme Court cases listed in Appendix A(g); and
  - 3) complies with the goal to be predictable, fair and consistent while determining the historical compliance of the person being examined, and to encourage and facilitate that person's ongoing and future compliance with the Act.

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- d) A person subject to examination retains the ability to request an informal conference with the administrator pursuant to Section 15-1008 of the Act.

**Section 760.810 Bankruptcy**

If, at any time before or during the course of an examination, the person subject to examination files for bankruptcy, that person shall give notice of the filing to the auditor. The auditor shall, within 7 calendar days after receiving notice or the discovery of the event, notify the administrator of the bankruptcy filing. If the administrator so elects, the auditor shall assist the administrator to ensure that a proper proof of claim is timely filed in the bankruptcy action.

**Section 760.820 Audit Resolution Agreements**

- a) Pursuant to the administrator's authority to conduct an examination, the administrator possesses the authority to resolve an examination via negotiation and settlement with the person subject to examination. This provides flexibility to both the person subject to examination and the administrator to resolve issues that could require formal appeal or litigation. These settlements are often referred to as audit resolution agreements.
- b) The administrator may not agree in a settlement to provide indemnification beyond that provided in Section 15-604 of the Act.
- c) Pursuant to Section 15-1206(1) of the Act, the administrator may agree to reduce or waive interest and penalties as part of a settlement.
- d) A mutually-agreed upon settlement resolves a specific examination and does not create any precedent on specific legal issues.

**Section 760.830 Report to Holder**

*At the conclusion of an examination, unless waived in writing by the person being examined, the administrator shall provide to the person whose records were examined a report that specifies:*

- a) *the work performed;*
- b) *the property types reviewed;*

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- c) *the methodology of any estimation technique, extrapolation, or statistical sampling used in conducting the examination;*
- d) *each calculation showing the value of property determined to be due; and*
- e) *the findings of the person conducting the examination.* [765 ILCS 1026/15-1007]

**Section 760.840 Voluntary Disclosure Agreement Program**

- a) Pursuant to the authority of the administrator under Section 15-1206 of the Act to waive, in whole or in part, interest and penalties, the administrator may establish a voluntary disclosure agreement (VDA) program for persons who are not in compliance with the Act.
- b) Under a VDA program, the administrator will agree to waive, in whole or in part, interest and penalties for a person who voluntarily reports and remits to the administrator property that should have been previously reported, paid or delivered to the administrator pursuant to the Act. The VDA program includes, but is not limited to, property that is reportable pursuant to the transition provisions of Section 15-1503 of the Act. Thus, property reportable under the Act or the previous Uniform Disposition of Unclaimed Property Act may be eligible to be voluntarily reported and remitted under the VDA program.
- c) A person who has been sent an official notice of examination letter may not participate in the VDA program.
- d) Participation in the administrator's VDA program does not waive or otherwise limit the administrator's authority to order and conduct an unclaimed property examination pursuant to Section 15-1002 of the Act.

**Section 760.850 Examination of State-Regulated Financial Organizations**

- a) Purpose of Section 15-1002.1 of the Act
  - 1) Section 15-1002.1 of the Act establishes a system in which the Illinois Department of Financial and Professional Regulation (DFPR) will include unclaimed property compliance as part of the regular audits or examinations performed on State-regulated financial organizations. Because DFPR will perform regular examinations of these entities, the

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administrator will not perform unclaimed property examinations of these State-regulated financial organizations pursuant to Section 15-1002 of the Act.

- 2) State-regulated financial organizations whose operations are either entirely or almost entirely within the State of Illinois shall be regularly examined by DFPR for compliance with unclaimed property laws. This should both ensure compliance with the Act and generally subject these State-regulated financial organizations to only one set of unclaimed property examinations.
  - 3) Section 15-1002.1 of the Act is not, however, intended to restrict the ability of the administrator to examine national banks, national credit unions, and other financial organizations that operate in multiple states. For financial organizations that operate in multiple states or are created pursuant to a national law, the administrator should either participate in multi-state examinations to determine compliance with the Act and similar unclaimed property laws of other states or otherwise perform an unclaimed property examination pursuant to Section 15-1002 of the Act.
- b) The administrator may perform an unclaimed property examination of a financial organization for which DFPR is the primary prudential regulator when either:
- 1) the administrator consults with DFPR and DFPR has not examined the State-regulated financial organization for compliance with the Act within the past 5 years; or
  - 2) DFPR waives, in writing, the restrictions of Section 15-1002.1 and permits the administrator to examine a financial organization or group of financial organizations for compliance with the Act.
- c) Primary Prudential Regulator. For purposes of the Act, DFPR is the primary prudential regulator for entities:
- 1) for which it performs regular regulatory examinations that include unclaimed property compliance at least once every 5 years;
  - 2) that operate primarily or exclusively in Illinois; and

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- 3) that are created pursuant to one of the following Acts: Illinois Banking Act [205 ILCS 5], Savings Bank Act [205 ILCS 205], Pawnbroker Regulation Act [205 ILCS 510], Corporate Fiduciary Act [205 ILCS 620], Residential Mortgage License Act of 1987 [205 ILCS 635], Illinois Credit Union Act [205 ILCS 305], Currency Exchange Act [205 ILCS 405], Transmitters of Money Act [205 ILCS 657], Sales Finance Agency Act [205 ILCS 660], Debt Management Service Act [205 ILCS 665], Consumer Installment Loan Act [205 ILCS 670], Title Insurance Act [215 ILCS 155], Debt Settlement Consumer Protection Act [225 ILCS 429], Safety Deposit License Act [240 ILCS 5], Payday Loan Reform Act [815 ILCS 122], Foreign Banking Office Act [205 ILCS 645], and Foreign Bank Representative Office Act [205 ILCS 650].
- d) Related Entities Not Covered by Section 15-1002.1
  - 1) Nothing in this Section is intended to restrict the ability of the administrator to perform an unclaimed property examination pursuant to Section 15-1002 of the Act when DFPR is not the primary prudential regulator. Thus, if a financial organization has DFPR as a primary prudential regulator under this Section, but a separate entity related to that financial organization does not have DFPR as a primary prudential regulator, the administrator may perform an unclaimed property examination of that entity pursuant to Section 15-1002 of the Act even if the administrator would defer to DFPR's unclaimed property examination of the financial organization pursuant to Section 15-1002.1.
  - 2) EXAMPLE: If an investment company is related to a state bank chartered by DFPR, the administrator would be able to perform an unclaimed property examination of the investment company even if the administrator would defer to DFPR's examination of the state-chartered bank.
- e) Disputes Over Application. If there is a dispute over whether an entity is covered by Section 15-1002.1 of the Act, the administrator and DFPR should consult to resolve the dispute using the framework established by Section 15-1002.1 of the Act and subsection (a) of this Section.
- f) Training. When requested by DFPR, the administrator shall provide or otherwise make available appropriate training to employees or representatives of DFPR regarding the examination for compliance with the Act. DFPR shall be

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responsible for all expenses incurred for the training of DFPR employees or representatives.

## SUBPART G: ENFORCEMENT

**Section 760.900 Purpose of Enforcement**

- a) State unclaimed property laws are based on a theory of truthful self-reporting by the holders of unclaimed property. Enforcement actions by the administrator are intended to both bring holders subject to enforcement actions into compliance with the Act and to encourage voluntary compliance by other holders. The expectation is that a holder who has been the subject of an enforcement action by the administrator will voluntarily comply with the Act in the future. And, further, a program of enforcement by the administrator will encourage holders to voluntarily comply with the Act in order to avoid being subject to enforcement actions.
- b) Unclaimed property examinations are an essential aspect of unclaimed property compliance. However, if a holder is reporting correctly under the Act, there should be no determination of liability by the administrator. (For rules concerning unclaimed property examinations, see Subpart F.)

**Section 760.910 Verified Report of Property**

- a) *If a person does not file a report required by Section 15-401 of the Act or the administrator believes that a person may have filed an inaccurate, incomplete, or false report, the administrator may require the person to file a verified report in a form prescribed by the administrator.*
- b) *The verified report must:*
  - 1) *state whether the person is holding property reportable under the Act;*
  - 2) *describe property not previously reported or about which the administrator has inquired;*
  - 3) *specifically identify property about which there is a dispute whether it is reportable under the Act; and*

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- 4) *state the amount or value of the property.* [765 ILCS 1026/15-1001]
- c) A verified report must otherwise comply with the requirements of Section 15-402 of the Act and Section 760.410 of this Part.

**Section 760.920 Administrative Subpoenas**

- a) *The administrator may, at reasonable times and on reasonable notice, issue an administrative subpoena requiring the person or agent of that person to make records available for examination pursuant to the Act.* [765 ILCS 1026/15-1002(2)]
- b) Prior to issuance, administrative subpoenas shall be reviewed and approved by the administrator's General Counsel or by another employee of the administrator who is an attorney licensed to practice law in Illinois designated by the General Counsel.
- c) The administrator may request that the Attorney General bring an action seeking judicial enforcement of a subpoena issued pursuant to the Act on behalf of the administrator.
- d) If a person to whom the administrator issues an administrative subpoena brings an action seeking a judicial order to quash, limit, or otherwise prevent enforcement of the administrative subpoena, then the administrator shall request that the Attorney General represent the administrator in that action.
- e) The administrator may request that the Attorney General appoint a Special Assistant Attorney General to represent the administrator in any action to enforce or defend an administrative subpoena issued pursuant to the Act.

**Section 760.930 Determination of Liability**

- a) *If the administrator determines from an examination conducted under Section 15-1002 of the Act that a putative holder failed or refused to pay or deliver to the administrator property that is reportable under the Act, the administrator shall issue a determination of the putative holder's liability to pay or deliver and give notice in a record to the putative holder of the determination.* [765 ILCS 1026/15-1011]

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- b) The administrator may give notice of any interest and civil penalties at the same time that notice of a determination of liability is given.

**Section 760.940 Interest and Penalties**

- a) **Interest on Unreported Property.** *A holder that fails to report, pay or deliver property within the time prescribed by the Act shall pay to the administrator interest at a rate of 1% per month on the property or value of the property from the date the property should have been reported, paid or delivered to the administrator until the date reported, paid or delivered.* [765 ILCS 1026/15-1204(a)] Thus, unless waived by the administrator pursuant to Section 15-1206, payment of interest on unreported reportable property is mandatory under the Act.
- b) **Civil Penalty for Failure to Act in Timely Manner.** *The administrator may require a holder that fails to report, pay, or deliver property within the time prescribed by the Act to pay to the administrator, in addition to interest, a civil penalty of \$200 for each day the duty is not performed, up to a cumulative maximum amount of \$5,000.* [765 ILCS 1026/15-1204(b)] Thus, unless the administrator determines that the holder acted in good faith and without negligence pursuant to Section 15-1206(b) of the Act, payment of a penalty for failure to act in a timely manner is a discretionary enforcement action by the administrator.
- c) **Civil Penalty for Willful Failure to Perform a Duty Under the Act.** *If a holder willfully fails to perform a duty imposed on the holder under the Act, the administrator may require the holder to pay the administrator, in addition to interest, a civil penalty of \$1,000 for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of \$25,000, plus 25% of the amount or value of property that should have been but was not reported, paid or delivered as a result of the evasion or failure to perform.* [765 ILCS 1026/15-1205(a)]
- d) **Civil Penalty for Filing a Fraudulent Report.** *If a holder makes a fraudulent report under the Act, the administrator may require the holder to pay to the administrator, in addition to interest, a civil penalty of \$1,000 for each day from the date the report was made until corrected, up to a cumulative maximum of \$25,000, plus 25% of the amount or value of any property that should have been reported but was not included in the report or was underreported.* [765 ILCS 1026/15-1205(b)]

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**Section 760.950 Waiver of Interest and Penalties**

- a) *The administrator may waive, in whole or in part, interest under Section 15-1204(a) of the Act and penalties under Section 15-1204(b) [765 ILCS 1026/15-1206(1)].*
- 1) This authority does not provide for waiver of penalties imposed for willful failure or filing a fraudulent report. However, the imposition of penalties under Section 15-1205 is not mandatory.
  - 2) The administrator may agree to reduce or waive interest and penalties as part of an audit resolution agreement (see Section 760.820).
  - 3) Unless the holder willfully failed to report, pay or deliver property within the time prescribed by the Act, the administrator will waive the payment of interest of less than 3 months.
- b) *The administrator shall waive a penalty under Section 15-1204(b) of the Act if the administrator determines that the holder acted in good faith and without negligence. [765 ILCS 1026/15-1206(2)]*
- 1) Good faith will only apply to situations in which the holder has attempted to comply with the Act.
  - 2) If the holder has failed to file a report, the holder did not act in good faith and without negligence as the holder has not attempted to comply with the Act.
- c) *A holder who fails to report, pay or deliver property within the time prescribed by the Act shall not be required to pay interest, or be subject to penalties, if the failure to report, pay or deliver the property was due to the lack of knowledge of the death that established the period of abandonment under the Act. [765 ILCS 1026/15-1204(c)]*

**Section 760.960 Judicial Enforcement**

- a) *The administrator may commence an action in the Circuit Court of Sangamon County or Cook County, federal court, or an appropriate court of another state to*

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*enforce a final determination of liability and secure payment or delivery of past due, unpaid, or undelivered property.*

- b) *An action to enforce a final determination of liability must be brought not later than 5 years after the determination becomes final. [765 ILCS 1026/15-1201(a)]*
- c) *If no court in Illinois has jurisdiction over the defendant, the administrator may commence an action in any court having jurisdiction over the defendant. [765 ILCS 1026/15-1201(b)]*
- d) *The administrator may request that the Attorney General appoint a Special Assistant Attorney General to represent the administrator in any action to enforce a final determination of liability.*

**Section 760.970 Action Involving Another State or Foreign Country**

- a) *The administrator may join another state or foreign country to examine and seek enforcement of the Act against a putative holder. [765 ILCS 1026/15-1203(a)]*
- b) *On request of another state or foreign country, the Attorney General may commence an action on behalf of the other state or country to enforce, in Illinois, the law of the other state or country against a putative holder subject to a claim by the other state or country. [765 ILCS 1026/15-1203(b)]*
- c) *The administrator may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in the other state or country on behalf of the administrator. Illinois may pay the costs, including reasonable attorney's fees and expenses, incurred by the other state or foreign country in an action under this subsection. [765 ILCS 1026/15-1203(c)]*
- d) *The administrator may pursue an action on behalf of Illinois to recover property subject to the Act but delivered to the custody of another state if the administrator believes the property is subject to the custody of the administrator. [765 ILCS 1026/15-1203(d)]*
- e) *At the request of the administrator, the Attorney General may commence an action to recover property on behalf of the administrator in Illinois, another state, or a foreign country. With the written consent of the Attorney General, the*

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*administrator may retain an attorney in Illinois, another state, or a foreign country as a special assistant attorney general to recover property on behalf of the administrator in Illinois, another state, or a foreign country and may agree to pay attorney's fees based in whole or in part on a fixed fee, hourly fee, or percentage of the amounts or value of property recovered in the action. [765 ILCS 1026/15-1203(e)]*

- f) In all actions commenced pursuant to Section 15-1203 of the Act, unless otherwise given permission in writing by the Attorney General, the administrator shall be represented by the Attorney General or a special assistant attorney general appointed by the Attorney General.
- g) *Expenses incurred by Illinois in an action under Section 15-1203 of the Act may be paid from property received under the Act or the net proceeds of the property. Expenses paid to recover property may not be deducted from the amount that is subject to a claim under the Act by the owner. [765 ILCS 1026/15-1203(f)]*

**Section 760.980 Periods of Limitation and Repose**

- a) *An action or proceeding may not be maintained by the administrator to enforce the Act in regard to the reporting, delivery or payment of property more than 10 years after the holder specifically identified the property in a report filed with the administrator or gave express notice to the administrator of a dispute regarding the property. [765 ILCS 1026/15-610(b)]*
- b) The 10-year period of limitation is tolled:
  - 1) if the holder did not specifically identify the property in a report filed with the administrator or provide other express notice to the administrator; or
  - 2) *by the filing of a report that is fraudulent. [765 ILCS 1026/15-610(b)]*
- c) Notwithstanding the tolling of the 10-year period of limitation because of a failure of a holder to specifically identify property in a report filed with the administrator or provide other express notice to the administrator, the administrator will not maintain an action in regard to the reporting, delivery or payment of property more than 10 years after that property should have been reported and remitted to the administrator if all of the following apply:

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- 1) the holder has filed reports with the administrator for the past 10 years;
- 2) the holder agrees in writing to file all reports required by the Act, including providing express notice to the administrator of any future disputes concerning the reporting of property;
- 3) the total amount of property, excluding any interest or penalties that the administrator could impose under the Act, is less than \$2,500 or is otherwise de minimis as reasonably determined by the administrator; and
- 4) *the administrator determines that the holder acted in good faith and without negligence.* [765 ILCS 1026/15-1206(2)]

AGENCY NOTE: The language of Section 15-610(b) of the Act comes from Section 19(b) of the 1995 Uniform Unclaimed Property Act promulgated by the Uniform Law Commission ([www.uniformlaws.org](http://www.uniformlaws.org)). The official comments to the 1995 Uniform Unclaimed Property Act note that this provision parallels the Internal Revenue Code (26 USC 6501(c)). The official comments further note that as "the Unclaimed Property Act is based on a theory of truthful self-reporting, a holder which conceals property, willfully or otherwise, cannot expect the protection of the stated limitations period".

## SUBPART H: CONFIDENTIALITY

**Section 760.1000 Confidentiality**

- a) *Information provided in reports filed pursuant to the Act and the database required by Section 15-503 of the Act are specifically exempt from disclosure under the Freedom of Information Act.* [765 ILCS 1026/15-1401(b)] The Freedom of Information Officer for the administrator may deny requests for records containing such information as *information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.* [5 ILCS 140/7(1)(a)]
- b) Under the Act "*private information*" as defined in the *Freedom of Information Act* and "*personal information*" as defined in the *Personal Information Protection Act* continues to be confidential when disclosed or delivered under the Act to the administrator or administrator's agent. [765 ILCS 1026/15-1401(a)]

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- 1) **Private Information.** The Freedom of Information Officer for the administrator may deny requests for records containing private information as *information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law; or unless disclosure is specifically required by a different State or federal law or a court order.* [5 ILCS 140/7(1)(a) and (b)]
- 2) **Personal Information.** Personal information as defined in the Personal Information Protection Act is either private information or personal information *the disclosure of which would constitute a clearly unwarranted invasion of personal privacy* as defined in Section 2(c-5) and 7(1)(c) of the Freedom of Information Act and the Freedom of Information Officer for the administrator may deny requests for records containing personal information as *information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law; or unless disclosure is specifically required by a different State or federal law or a court order.* [5 ILCS 140/7(1)(a) and (b)]

**Section 760.1010 Confidentiality of Records Obtained During Examination**

- a) *Records obtained and records, including work papers, compiled by the administrator or the administrator's agent in the course of conducting an examination:*
  - 1) *are exempt from disclosure under the Freedom of Information Act;*
  - 2) *may be used by the administrator in an action to collect property or otherwise enforce the Act;*
  - 3) *may be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country, or any other governmental entity if the governmental entity conducting the examination is legally bound to maintain the confidentiality and security of information obtained from a person subject to examination in a manner substantially equivalent to Article 14 of the Act;*
  - 4) *may be disclosed, on request, to the person that administers the unclaimed property law of another state for that state's use in circumstances*

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*equivalent to circumstances described in Article 10 of the Act, if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to Article 14 of the Act;*

- 5) *must be produced by the administrator under an administrative or judicial subpoena or administrative or court order; and*
- 6) *must be produced by the administrator on request of the person subject to the examination in an administrative or judicial proceeding relating to the property. [765 ILCS 1026/15-1004]*
- b) Auditors shall not disclose confidential information obtained during an unclaimed property examination to any person other than the administrator or the administrator's designee and, in the case of a multistate examination, to authorized representatives of a state participating in the examination.
- c) Auditors shall not use confidential information obtained from the person subject to an examination for any purpose other than for purposes of the examination. Auditors shall take reasonable steps to ensure that the confidential information provided by the person subject to an examination is securely maintained.
- d) Auditors must comply with any applicable federal and State laws and regulations pertaining to unauthorized disclosures of confidential information, including the Personal Information Protection Act.

## SUBPART I: MISCELLANEOUS

**Section 760.1100 Transition Provisions**

- a) *An initial report filed under the Revised Act for property that was not required to be reported before the effective date of the Revised Act, but that is required to be reported under the Revised Act, must include all items of property that would have been presumed abandoned during the 5-year period preceding the effective date of the Revised Act as if the Revised Act had been in effect during that period. [765 ILCS 1026/15-1503(a)]*

AGENCY NOTE: A version of the transitional provision described in Section 15-1500(a) of the Act has been included in every uniform unclaimed property Act promulgated by the ULC [765 ILCS 15-1500(a)]. While the Act has a 5-year look

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back period, the Uniform Law Commission (ULC, also known as the National Conference of Commissioners on Uniform State Laws) version of RUUPA has a 10-year look back period. This 5-year period is identical to the requirement in the Former Act that the State Treasurer "issue a Notice of Deficiency to a holder or direct the commencement of an examination of a holder with respect to a report required under the Former Act within 5 years after the report is filed." (See the repealed 765 ILCS 1025/23.5(a).) The Former Act, when it was adopted in 1961, had a transitional provision that applied its provisions to any property for which the presumption of abandonment prescribed by the Former Act occurred on or after August 17, 1946. Thus, the look back period in the Former Act was 15 years. (See the repealed 765 ILCS 1025/17.)

## 1) Property Covered by the Transition Provision

- A) As part of its report filed in calendar year 2018, a holder must report all property that would have been reported in 2013 through 2017 as if the Revised Act had been in effect on January 1, 2013.
- B) Property that was excluded in 2013 through 2017 under the Former Act (Uniform Disposition of Unclaimed Property Act [765 ILCS 1025]), but that is not excluded under the Revised Act, must be reported in 2018.

EXAMPLE: Property that was excluded from being reported and remitted pursuant to provisions of Section 2a(b) of the Former Act during 2013 through 2017 should be reported in 2018.

- C) Which property should be reported under this transitional provision is determined by looking at the applicable period of abandonment in the Revised Act.

EXAMPLE: Section 15-201(5) provides that the debt of a business association is reportable 3 years after the obligation to pay arises. So, a debt owed to another business association that arose in 2010 would have been reportable in 2013 and, therefore, would be reportable in the initial report filed in 2018.

## 2) Owner Interest

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- A) The requirement to report property that was previously excluded from being reported under the Former Act is still subject to the indication of apparent owner interest in property provisions of Section 15-210 of the Revised Act.
- B) The period of abandonment for property covered by subsection (a) is measured from the later of:
  - i) the date the property would have been presumed abandoned if the Revised Act had been in effect; or
  - ii) the date of the latest indication of interest by the apparent owner in the property.
- 3) Due Diligence Notice Required. A holder reporting property pursuant to subsection (a) is still required to provide notice to an apparent owner of that property pursuant to the applicable provisions of Section 15-501 of the Revised Act.
- 4) Interest and Penalties
  - A) If a holder reports property pursuant to subsection (a) in 2018, that property is considered to have been reported at the time prescribed by the Revised Act. As such, the administrator may not impose any interest or penalties under Section 15-1204 of the Revised Act on property reported in 2018 in compliance with subsection (a).
  - B) If a holder fails to report property in 2018 that should have been reported under subsection (a), but reports that property in 2019, the administrator shall waive any interest or penalties under Section 15-1204 of the Revised Act if the administrator determines that the holder acted in good faith and without negligence.
- 5) Insufficient Holder Records. The following provisions apply to a holder that has insufficient records to accurately report property that should be reported in 2018 pursuant to subsection (a).
  - A) The holder:

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- i) shall report all property for which it has adequate records to file a report under Section 15-401 of the Revised Act; and
  - ii) may enter into a written agreement with the administrator to report and remit an estimate of any property that would have been reportable to Illinois for which the holder does not have adequate records to file a report under Section 15-401 of the Revised Act.
- B) If the holder is domiciled outside of Illinois, any estimate of property that would have been reportable to Illinois will be an estimate of property for which the last-known address of the apparent owner would have been in Illinois.
- C) If the holder is domiciled in Illinois, any estimate of property that would have been reportable to Illinois will be an estimate both of property for which the last-known address of the apparent owner would have been in Illinois and of property that would have been reportable to Illinois under Section 15-304 of the Revised Act.
- 6) If property exempted under the Former Act but not excluded under the Revised Act has been paid to another state, the holder is not required to pay again. In this case, the holder should provide notice to the administrator, so that the administrator can make a determination whether to attempt to reclaim that property from the state first taking possession. To provide the notice, the holder may, but is not required to, provide the administrator with a copy of the report or relevant portions of the report filed with the other state to which the property was reported and remitted. Providing notice to the administrator under this provision is a form of "express notice" as provided in Section 15-610(b) of the Act.
- b) *The Act does not relieve a holder of a duty that arose before the effective date of the Revised Act to report, pay or deliver property. Subject to Section 15-610(b) of the Act, a holder that did not comply with the law governing unclaimed property before the effective date of the Act is subject to applicable provisions for enforcement and penalties in effect before the effective date of the Revised Act.*  
[765 ILCS 1026/15-1503(b)]

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- 1) Holders are still required to report and remit any property that was reportable under the Former Act prior to January 1, 2018, the effective date of the Revised Act.
  - A) Property that would not be reportable under the Revised Act, that should have been reported under the Former Act prior to January 1, 2018 will generally still be reportable to the administrator.
  - B) **EXAMPLE:** Property that should have been reported under the Former Act on November 1, 2017 because it had been presumed abandoned in the 12 months preceding July 1, 2017, but for whatever reason was not reported and remitted to the administrator by January 1, 2018, would still need to be reported and remitted to the administrator.
  - C) The statute of limitations in Section 15-610 of the Revised Act, including the tolling provisions in Section 610(b), still applies to the ability of the administrator to bring an enforcement action against a holder.
- 2) Unclaimed property examinations that were initiated before January 1, 2018, but are still ongoing on or after January 1, 2018, will be based on the presumptions of abandonment from the appropriate Act given the circumstances surrounding the property.
  - A) Property that would be reportable under the Revised Act will generally be reportable under that Act.
  - B) Property that would not be reportable under the Revised Act, but should have been reported under the Former Act prior to January 1, 2018 will generally still be reportable to the administrator.
  - C) When the standard for determining a presumption of abandonment under the Revised Act is materially different from under the Former Act, and it is in the best interests of the owner for the new standard to apply, the Revised Act shall apply.

**EXAMPLE:** A tax-advantaged nonretirement account that would have been presumed abandoned after 5 years of inactivity under

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the Former Act, but would not be presumed abandoned until 3 years after the date by which distribution of the property must begin to avoid a tax penalty under the Revised Act, would be a case in which the new standard would be applied.

- D) The administrator and the holder may agree in writing how to resolve issues in which both unclaimed property Acts may reasonably be interpreted as applying to property that is the subject of the unclaimed property examination. Under Section 15-608(b) of the Revised Act, the administrator has the authority to accept property early and to waive or reduce interest and penalties.
- E) Generally, an examination will toll the statute of limitations in Section 15-610 of the Revised Act unless the holder specifically identified the property in a report filed with the administrator or gave other express notice to the administrator prior to the initiation of the examination, because a person subject to an unclaimed property examination generally does not file reports directly with the administrator during that examination.

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**Section 760.APPENDIX A Background Information**

- a) Section 15-1501 of the Act provides that, *when applying and construing the Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.* [765 ILCS 15-1501]. Given the provisions of Section 15-1501, this Appendix is intended to provide background that will be useful to persons attempting to interpret the Act.
- b) Every state has enacted legislation requiring that holders of presumptively abandoned or unclaimed property report and deliver that property to the state. A majority of states have adopted some form of one of the uniform acts promulgated by the Uniform Law Commission (ULC). The problem of "lucrative silence" by holders motivated the ULC to draft and promulgate the original Uniform Disposition of Unclaimed Property Act (UDUPA) in 1954. Illinois passed its version of UDUPA in 1961. Illinois' current law is based on the ULC's Revised Uniform Unclaimed Property Act (RUUPA) that was approved and recommended for enactment in all states in 2016.
- c) Various courts have attempted to lay out the purposes of state unclaimed property laws. The Minnesota Supreme Court summarized the four main purposes as:
  - 1) to protect the interests of the owners of unclaimed property;
  - 2) to relieve holders of the annoyance, expense and liability of keeping unclaimed property;
  - 3) to preclude multiple liability; and
  - 4) to give the adopting state use of considerable sums of money that otherwise is a windfall to holders. (State by Lord v. First National Bank, 313 N.W.2d 390, 393 (Minn. 1981))
- d) Illinois' Appellate Court noted that Illinois' unclaimed property Act "protects the rights of unknown owners and gives the benefit of the use of the unclaimed property, most of which experience shows will never be claimed, to the State rather than the holders." (People ex rel. Fahner v. Chicago Transit Authority, 127 Ill. App. 3d 405, 408, 468 N.E.2d 1316, 1318 (1<sup>st</sup> Dist. 1984) citing People ex rel. Callahan v. Marshall Field & Co. (1980), 83 Ill. App. 3d 811, 404 N.E.2d 368; and Douglas Aircraft Co. v. Cranston (1962), 58 Cal. 2d 462, 374 P.2d 819)

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- e) State unclaimed property Acts prevent the unjust enrichment by holders of property to which they are not legally entitled and establish a process through which unclaimed property may be reunited with its rightful owner. These statutes essentially abolish the common law on abandoned property and remove the escheatment by the state of intangible personal property. The state no longer becomes the legal owner of unclaimed intangible personal property. Instead, it is transferred to a state unclaimed property administrator, typically the State Treasurer, who serves as a perpetual custodian of the unclaimed property.
- f) The Uniform Unclaimed Property System
- 1) The uniform unclaimed property Acts, including Illinois' Act, set up a system for dealing with unclaimed intangible property as well as tangible unclaimed property recovered from safe deposit boxes. Each state's Act establishes rules to determine when different types of property are presumed abandoned. After property is presumptively abandoned, the holder of the property is almost always required to attempt to contact the owner of unclaimed property in writing. This is called a due diligence notice. If the owner does not claim the property from the holder, then the holder is required to report and remit that property to the state unclaimed property administrator as part of an annual unclaimed property report.
  - 2) The administrator once again attempts to contact owners. Historically, this was done through newspaper advertisements; now, however, in addition to print advertising, states maintain searchable online databases, work with other government agencies to update contact information for owners, send direct mail to apparent owners, and perform other types of in-person outreach and media advertising to attempt to reunite owners, or their heirs, with their unclaimed property.
  - 3) Cash remitted to the administrator is deposited into a state fund. Non-cash property is held for a period of time and then sold if the owner has not been located, with the proceeds being deposited into the same state fund. Owners can claim their property from the administrator using online or paper claim forms and, when necessary, by supplying supporting documentation to prove that they are the rightful owner. There is no deadline for an owner to reclaim his or her property from the administrator.

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- g) The U.S. Supreme Court has established federal common law rules to determine which state is entitled to unclaimed property. The cases of *Texas v. New Jersey*, 379 U.S. 674 (1965), *Pennsylvania v. New York*, 407 U.S. 206 (1972), and *Delaware v. New York*, 507 U.S. 490 (1993) have established the framework to determine which state has priority in claiming unclaimed property.
- h) The Act is not identical to the version of RUUPA promulgated by the ULC. The ULC version, including the official comments, is available at [www.uniformlaws.org](http://www.uniformlaws.org). While the General Assembly chose to adopt great portions of the version of RUUPA promulgated by the ULC, certain provisions from the Former Act were retained, language from prior versions of the uniform Act were used in places, and sometimes provisions were modified or entirely rewritten. However, the Act, Illinois' version of RUUPA, contains all of the elements of modern unclaimed property law discussed in this Appendix.

## DEPARTMENT OF AGRICULTURE

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Illinois Pesticide Act
- 2) Code Citation: 8 Ill. Adm. Code 250
- 3) Section Number: 250.220                      Emergency Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Pesticide Act [450 ILCS 60].
- 5) Effective Date of Emergency Rule: March 22, 2019
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rulemaking is not set to expire before the end of the 150-day period.
- 7) Date Filed with the Index Department: March 22, 2019
- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The emergency amendment is needed so that youth job training programs that involve the application of herbicide products on public lands may operate during the 2019 spring and summer seasons.
- 10) A Complete Description of the Subjects and Issues Involved: Updates qualifications for applicators of herbicide products on public lands to include participants in a supervised youth job training program.
- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: This emergency rulemaking does not create or enlarge any State mandate.
- 13) Information and questions regarding this emergency amendment shall be directed to:

Albert A. Coll  
Assistant General Counsel  
Illinois Department of Agriculture

DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENT

State Fairgrounds, P.O. Box 19281  
Springfield IL 62794-9281

217/782-4051  
fax: 217/785-4505

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

## DEPARTMENT OF AGRICULTURE

## NOTICE OF EMERGENCY AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER i: PESTICIDE CONTROLPART 250  
ILLINOIS PESTICIDE ACT

Section	
250.10	Definitions
250.20	Registration of Pesticide Dealers Selling Restricted Use Pesticides or Certain Non-Restricted Use Pesticides
250.30	Registration of Pesticides
250.40	Registration of Experimental Use Pesticides
250.50	Registration of Special Local Need Pesticides
250.60	Emergency Exemption Registration
250.70	Method of Becoming Certified Applicators
250.80	Private Pesticide Applicators: Certification, Licensing, Testing and Training
250.90	Commercial Applicator, Commercial Not For Hire Applicator and Public Applicator: Certification, Testing and Licensing
250.100	Licensed Operator (Commercial Operator, Commercial Not For Hire Operator and Public Operator): Testing and Licensing
250.110	General Competency Standards to be Covered on the Tests
250.120	Technical Category Areas of Pesticide Use
250.130	Surety Bond or Liability Insurance
250.140	Interagency Committee on Pesticides
250.150	Record Keeping
250.160	Permits
250.170	Administrative Hearing
250.180	Administrative Penalties
250.190	Formulation Violations of Label Claim
250.200	Reporting of Pesticide Incidents or Misuse Complaints
250.210	Special Application of Solid Mosquito Larvicides
250.220	Special Application of Herbicides to Control Invasive Plants on Public Lands

EMERGENCY

AUTHORITY: Implementing and authorized by the Illinois Pesticide Act [450 ILCS 60].

SOURCE: Adopted at 5 Ill. Reg. 732, effective January 6, 1981; codified at 5 Ill. Reg. 10527; amended at 6 Ill. Reg. 3071, effective March 8, 1982; amended at 8 Ill. Reg. 855, effective

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January 5, 1984; amended at 8 Ill. Reg. 16407, effective August 29, 1984; amended at 10 Ill. Reg. 7663, effective April 28, 1986; amended at 12 Ill. Reg. 12784, effective July 26, 1988; amended at 24 Ill. Reg. 7191, effective April 27, 2000; emergency amendment at 26 Ill. Reg. 13093, effective August 14, 2002, for a maximum of 150 days; emergency amendment expired January 10, 2003; amended at 27 Ill. Reg. 5715, effective March 18, 2003; amended at 30 Ill. Reg. 12756, effective July 14, 2006; amended at 35 Ill. Reg. 351, effective January 1, 2011; emergency amendment at 43 Ill. Reg. 4340, effective March 22, 2019, for a maximum of 150 days.

**Section 250.220 Special Application of Herbicides to Control Invasive Plants on Public Lands****EMERGENCY**

- a) Any person who receives training, pursuant to subsection (b) of this Section from an individual possessing a current Category 6 Right-of-Way Pest Control applicator license issued by the Department, after receipt of a certificate issued by the Department, may apply a herbicide product for the control of invasive plants on public lands without further compliance with the licensing provisions of this Part if all of the following are met:
  - 1) The individual providing training pursuant to subsection (b) must be a compensated employee of the organization that has direct control of the public lands upon which the herbicide product applications are to be made;
  - 2) The individual making herbicide product applications under the provisions of this Section shall not receive compensation for the herbicide product applications; For the purposes of this Section, participation in a supervised conservation job training program shall not be considered as receiving compensation;
  - 3) The signal word contained on the herbicide product is "CAUTION";
  - 4) The herbicide product to be applied shall not be classified as a "restricted use" pesticide;
  - 5) The herbicide product application method is limited to the method or methods included in the training provided pursuant to subsection (b) of this Section;

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- 6) A review of the specific herbicide product's label must have been included in the training program described in subsection (b);
  - 7) The herbicide product application site or sites are limited to the public lands identified during the training provided pursuant to subsection (b) and the public lands must be under the direct control of the trainer who provided the training or the trainer's organization;
  - 8) All mixing of the herbicide product and loading of the herbicide product into any required application device or devices shall be conducted by the trainer who provided the training or other licensed applicator possessing a current Category 6 Right-of-Way Pest Control applicator license issued by the Department; and
  - 9) Each individual making herbicide product applications under the provisions of this Section shall utilize the personal protective equipment specified on the herbicide product label for handlers during the application activity.
- b) The training shall be not less than one hour in duration and shall include a review of the herbicide product labels, use restrictions, application rates, application methods, first aid, potential environmental hazards, personal protective equipment, and any other information deemed appropriate by the trainer for the safe and effective use of the herbicide products that meet the criteria listed in subsection (a) of this Section.
  - c) Upon completion of the training, the trainer shall immediately provide to the Department a complete legible listing, including name, address, telephone number, birth date, and sponsoring organization for whom the herbicide product applications are to be made, of all individuals who received the training and are thus eligible to apply only the specific herbicide product or products set forth in this Section.
  - d) The trainer shall also provide to the Department the date and location of the training, the trainer's name, address, telephone number, pesticide applicator license number, pesticide applicator license expiration date, trainer's organization, and a legible copy of the specific herbicide product label or labels utilized in the training session.

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- e) An individual trained to apply a herbicide product under the provisions of this Section, and only after receiving the certificate issued by the Department, may only:
  - 1) apply the specific herbicide products included in the training described in this Section;
  - 2) make such applications on the public lands identified in the training; and
  - 3) make applications during the calendar year in which the training was received.
- f) For the purpose of this Section, a person shall mean any individual over 18 years of age.

(Source: Amended by emergency rulemaking at 43 Ill. Reg. 4340, effective March 22, 2019, for a maximum of 150 days)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill. Adm. Code 113
- 3) Section Number: 113.10                      Emergency Action: Amendment
- 4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13], 8 USCA 1253(h) prior to September 30, 1996 and 8 USCA 1231(b)(3) on or after September 30, 1996.
- 5) Effective Date of Rule: March 20, 2019
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rule will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: March 20, 2019
- 8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The rule is proposed as emergency because it impacts the public interest, including the safety and welfare of potential customers. Due to a pending court case, this rulemaking updates the INA specification/classification for non-citizen under IDHS' AABD program. As a result, persons for whom deportation has been withheld under section 243(h) (8 USC 1253(h)) (prior to September 30, 1996) or 241(b)(3) (8 USC 1231(b)(3)) (on or after September 30, 1996) of the INA may receive AABD assistance, if otherwise eligible.
- 10) A Complete Description of the Subject and Issues involved: This rulemaking updates the Immigration and Nationality Act (INA) specification/classification for non-citizen under IDHS' Aid to the Aged, Blind or Disabled (AABD) program.
- 11) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
113.253	Amendment	43 Ill. Reg. 1240; January 18, 2019
113.260	Amendment	43 Ill. Reg. 1240; January 18, 2019

DEPARTMENT OF HUMAN SERVICES

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- 12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding this emergency rule 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

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113  
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section

- 113.1 Description of the Assistance Program
- 113.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 113.9 Client Cooperation
- 113.10 Citizenship

EMERGENCY

- 113.20 Residence
- 113.30 Age
- 113.40 Blind
- 113.50 Disabled
- 113.60 Living Arrangement
- 113.70 Institutional Status
- 113.80 Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 113.100 Unearned Income
- 113.101 Budgeting Unearned Income
- 113.102 Budgeting Unearned Income of Applicants Receiving Income on Date of Application And/Or Date of Decision
- 113.103 Initial Receipt of Unearned Income
- 113.104 Termination of Unearned Income
- 113.105 Unearned Income In-Kind
- 113.106 Earmarked Income
- 113.107 Lump Sum Payments and Income Tax Refunds

## DEPARTMENT OF HUMAN SERVICES

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- 113.108 Protected Income (Repealed)
- 113.109 Earned Income (Repealed)
- 113.110 Budgeting Earned Income (Repealed)
- 113.111 Protected Income
- 113.112 Earned Income
- 113.113 Exempt Unearned Income
- 113.114 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
- 113.115 Initial Employment
- 113.116 Budgeting Earned Income For Contractual Employees
- 113.117 Budgeting Earned Income For Non-contractual School Employees
- 113.118 Termination of Employment
- 113.120 Exempt Earned Income
- 113.125 Recognized Employment Expenses
- 113.130 Income From Work/Study/Training Programs
- 113.131 Earned Income From Self-Employment
- 113.132 Earned Income From Roomer and Boarder
- 113.133 Earned Income From Rental Property
- 113.134 Earned Income In-Kind
- 113.139 Payments from the Illinois Department of Children and Family Services
- 113.140 Assets
- 113.141 Exempt Assets
- 113.142 Asset Disregard
- 113.143 Deferral of Consideration of Assets
- 113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)
- 113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)
- 113.156 Court Ordered Child Support Payments of Parent/Step-Parent
- 113.157 Responsibility of Sponsors of Non-citizens Entering the Country Prior to 8/22/96
- 113.158 Responsibility of Sponsors of Non-citizens Entering the Country On or After 08/22/96
- 113.160 Assignment of Medical Support Rights

## SUBPART D: PAYMENT AMOUNTS

- Section
- 113.245 Payment Levels for AABD
- 113.246 Personal Allowance
- 113.247 Personal Allowance Amounts

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## NOTICE OF EMERGENCY AMENDMENT

113.248	Shelter
113.249	Utilities and Heating Fuel
113.250	Laundry
113.251	Telephone
113.252	Transportation, Lunches, Special Fees
113.253	Allowances for Increase in SSI Benefits
113.254	Nursing Care or Personal Care in Home Not Subject to Licensing
113.255	Sheltered Care/Personal or Nursing Care in a Licensed Group Care Facility
113.256	Shopping Allowance
113.257	Special Allowances for Blind and Partially Sighted (Blind Only)
113.258	Home Delivered Meals
113.259	AABD Fuel and Utility Allowances By Area
113.260	Sheltered Care, Personal Care or Nursing Care Rates
113.261	Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing Facilities, DMHDD Facilities and All Other Licensed Medical Facilities
113.262	Meeting the Needs of an Ineligible Dependent with Client's Income
113.263	Service Animals
113.264	Refugees Ineligible for SSI

## SUBPART E: OTHER PROVISIONS

Section	
113.300	Persons Who May Be Included In the Assistance Unit
113.301	Grandfathered Cases
113.302	Interim Assistance (Repealed)
113.303	Special Needs Authorizations
113.304	Retrospective Budgeting
113.305	Budgeting Schedule
113.306	Purchase and Repair of Household Furniture (Repealed)
113.307	Property Repairs and Maintenance
113.308	Excess Shelter Allowance
113.309	Limitation on Amount of AABD Assistance to Recipients from Other States (Repealed)
113.320	Redetermination of Eligibility
113.330	Attorney's Fees for VA Appellants (Repealed)

## SUBPART F: INTERIM ASSISTANCE

Section

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- 113.400 Description of the Interim Assistance Program
- 113.405 Pending SSI Application (Repealed)
- 113.410 More Likely Than Not Eligible for SSI (Repealed)
- 113.415 Non-Financial Factors of Eligibility (Repealed)
- 113.420 Financial Factors of Eligibility (Repealed)
- 113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
- 113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
- 113.435 Medical Eligibility (Repealed)
- 113.440 Attorney's Fees for SSI Applicants (Repealed)
- 113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
- 113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
- 113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill.

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Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150

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days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg.

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15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995; emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of a 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 579, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1607, effective January 20, 1999; amended at 23 Ill. Reg. 5548, effective April 23, 1999; amended at 23 Ill. Reg. 6052, effective May 4, 1999; amended at 23 Ill. Reg. 6425, effective May 15, 1999; amended at 23 Ill. Reg. 6935, effective May 30, 1999; amended at 23 Ill. Reg. 7887, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8650, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10161, effective August 3, 1999; amended at 23 Ill. Reg. 13852, effective November 19, 1999; amended at 24 Ill. Reg. 2328, effective February 1, 2000; amended at 24 Ill. Reg. 11622, effective July 18, 2000; amended at 24 Ill. Reg. 13394, effective August 18, 2000; amended at 25 Ill. Reg. 5326, effective March 30, 2001; amended at 26 Ill. Reg. 179, effective January 1, 2002; amended at 26 Ill. Reg. 8532, effective May 31, 2002; amended at 26 Ill. Reg. 13521, effective September 3, 2002; amended at 27 Ill. Reg. 7252, effective April 7, 2003; amended at 28 Ill. Reg. 11139, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 11366, effective July 21, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12469, effective August 20, 2004, for a maximum of 150 days; emergency expired January 16, 2005; amended at 29 Ill. Reg. 648, effective December 16, 2004; amended at 29 Ill. Reg. 5703, effective April 11, 2005; amended at 29 Ill. Reg. 10176, effective July 5, 2005; amended at 30 Ill. Reg. 16065, effective September 21, 2006; amended at 31 Ill. Reg. 6981, effective April 30, 2007; amended at 31 Ill. Reg. 11306, effective July 19, 2007; amended at 32 Ill. Reg. 17187, effective October 16, 2008; peremptory amendment at 32 Ill. Reg. 18065, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4993, effective March 19, 2009, for a maximum of 150 days; emergency expired August 15, 2009; emergency amendment at 33 Ill. Reg. 7337, effective May 21, 2009, for a maximum of 150 days; emergency expired October 17, 2009; amended at 33 Ill. Reg. 12775, effective September 8, 2009; emergency amendment at 33 Ill. Reg. 12850, effective September 4, 2009, for a maximum of 150 days; emergency expired January 31, 2010; amended at 33 Ill. Reg. 13846, effective September 17, 2009; amended at 33 Ill. Reg. 15033, effective October 22, 2009; amended at 33 Ill. Reg. 16845, effective November 30, 2009; emergency amendment at 34 Ill. Reg. 6944, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 7255, effective May 10, 2010; amended at 35 Ill. Reg. 1012, effective December 28, 2010; emergency amendment at 35 Ill. Reg. 6951, effective April 6, 2011, for a maximum of 150 days; emergency expired September 2, 2011; amended at 35 Ill. Reg. 17096, effective October 5, 2011; amended at 35 Ill. Reg. 18756,

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effective October 28, 2011; amended at 36 Ill. Reg. 15195, effective October 5, 2012; emergency amendment at 36 Ill. Reg. 17567, effective December 1, 2012 through June 30, 2013; amended at 37 Ill. Reg. 8728, effective June 11, 2013; amended at 37 Ill. Reg. 14876, effective August 27, 2013; amended at 38 Ill. Reg. 16229, effective July 18, 2014; emergency amendment at 38 Ill. Reg. 17470, effective July 30, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 22654, effective November 20, 2014; amended at 39 Ill. Reg. 13260, effective September 21, 2015; amended at 41 Ill. Reg. 10331, effective July 21, 2017; amended at 42 Ill. Reg. 16195, effective August 7, 2018; amended at 43 Ill. Reg. 343, effective December 20, 2018; emergency amendment at 43 Ill. Reg. 4346, effective March 20, 2019, for a maximum of 150 days.

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

**Section 113.10 Citizenship****EMERGENCY**

To be eligible for assistance, an individual shall be either a U.S. citizen or a non-citizen within specific categories and subject to specific restrictions as set forth in this Section:

- a) Citizenship status – Persons born in the U.S., or in its possessions, are U.S. citizens. Citizenship can also be acquired by naturalization through court proceedings, or by certain persons born in a foreign country of U.S. citizen parents.
- b) Non-citizens
  - 1) The following categories of non-citizens may receive assistance, if otherwise eligible:
    - A) A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;
    - B) Refugees under section 207 of the Immigration and Nationality Act (INA);
    - C) Asylees under section 208 of the INA;
    - D) Persons for whom deportation has been withheld under section 243(h) (8 USC 1253(h)) prior to September 30, 1996 or 241(b)(3)

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(8 USC 1231(b)(3)) of the INA on or after September 30, 1996;

- E) Persons granted conditional entry under section 203(a)(7) of the INA as in effect prior to April 1, 1980;
  - F) Persons lawfully admitted for permanent residence under the INA including:
    - i) Afghani immigrants with special immigrant status under section 101(a)(27) of the INA. The five-year residency requirement set forth in subsection (b)(2) of this Section does not apply to this sub-group.
    - ii) Iraqi immigrants with special immigrant status under section 101(a)(27) of the INA. The five-year residency requirement set forth in subsection (b)(2) of this Section does not apply to this sub-group;
  - G) Parolees, for at least one year, under section 212(d)(5) of the INA;
  - H) Persons who are a spouse, widow or child of a U.S. citizen or a spouse or child of a legal permanent resident (LPR) who have been battered or subjected to extreme cruelty by the U.S. citizen or LPR or a member of that relative's family who lived with them, who no longer live with the abuser or plans to live separately within one month after receipt of assistance and whose need for assistance is due, at least in part, to the abuse; and
  - I) Victims of trafficking, or the minor child, spouse, parent or sibling of the trafficking victim, who have been certified by or whose status has been verified by the federal Office of Refugee Resettlement (ORR).
- 2) Those persons who are in the categories set forth in subsections (b)(1)(F) and (b)(1)(G) of this Section, who enter the United States on or after August 22, 1996, shall not be eligible for five years beginning on the date the person entered the United States.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

(Source: Amended by emergency rulemaking at 43 Ill. Reg. 4346, effective March 20, 2019, for a maximum of 150 days)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF WITHDRAWAL TO MEET THE OBJECTION OF THE  
JOINT COMMITTEE ON ADMINISTRATIVE RULES

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
140.990	Amendment
140.991	Amendment
140.992	Amendment
140.993	Amendment
140.994	Amendment
140.995	Repealed
140.996	Repealed
140.997	Repealed
- 4) Date Notice of Proposed Rules published in the *Illinois Register*: 42 Ill. Reg. 18242; October 12, 2018
- 5) Date JCAR Statement of Objection published in the *Illinois Register*: 43 Ill. Reg. 4026; March 29, 2019
- 6) Summary of Action Taken by the Agency: JCAR issued a statement of objection to the above-cited Integrated Health Home Program rulemaking on March 12, 2019. The Department is withdrawing the rulemaking in response to this objection.

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

- 1) Heading of the Part: Payment of Unemployment Contributions, Interest and Penalties
- 2) Code Citation: 56 Ill. Adm. Code 2765
- 3) Section Number: 2765.200
- 4) Date Proposal published in *Illinois Register*: 42 Ill. Reg. 17028; September 28, 2018
- 5) Date Adoption published in *Illinois Register*: 43 Ill. Reg. 1585; February 1, 2019
- 6) Summary and Purpose of Expedited Correction: To correct a sentence, by replacing one word with another, appearing in rule 56 Illinois Administrative Code 2765.200(b)(3). Specifically, the error as adopted says that given language shall be "divided by". In fact, the rule should properly say that the given language shall be "divided into". Changing the word "by" to the word "into" will add clarity to the language of the rule and will make subsection (b)(3) consistent with other parts of the rule.
- 7) Information and questions regarding this request shall be directed to:

Thomas D. Chan  
Acting General Counsel  
Illinois Department of Employment Security  
33 S. State St., Room 933  
Chicago IL 60603

312/793-2338  
fax: 312/338-0361

The full text of the Expedited Correction begins on the next page:

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

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

## PART 2765

## PAYMENT OF UNEMPLOYMENT CONTRIBUTIONS, INTEREST AND PENALTIES

## SUBPART A: GENERAL PROVISIONS

## Section

- 2765.1 Unemployment Contributions Not Deductible From Wages
- 2765.5 Definitions
- 2765.10 Payment Of Contributions
- 2765.11 Employers Who Employ Household Workers and Pay Contributions on an Annual Basis
- 2765.15 Liability For The Entire Year
- 2765.18 Liability Of A Third Party Purchaser Or Transferee For The Due And Unpaid Contributions, Interest And Penalties Of The Seller Or Transferor's Seller or Transferor
- 2765.20 Contributions Of Employer By Election
- 2765.25 Payments In Lieu Of Contributions
- 2765.30 When Payments in Lieu of Contributions Are Payable
- 2765.35 Payments When Reimbursable Employer Becomes Contributory
- 2765.40 Payments When Contributory Employer Becomes Reimbursable
- 2765.44 Fee For Not Sufficient Funds (NSF) Checks
- 2765.45 Application of Payment
- 2765.50 Accrual Of Interest
- 2765.55 Imposition Of Penalty
- 2765.56 Imposition of Late Reporting Penalty for Employers Who Employ Household Workers and Elect to File Reports on an Annual Basis
- 2765.60 Payment Or Filing By Mail
- 2765.61 Waiver of Interest and Penalty for Employers Who Employ Household Workers and Who File Reports and Pay Contributions on an Annual Basis (Repealed)
- 2765.62 Temporary Waivers of Penalty
- 2765.63 When Payment Due And Consequences Of Upward Revision In Employer's Contribution Rate
- 2765.64 Consequences When an Employee Leasing Company Has Erroneously Reported Wages and Paid Contributions When the Wages Should Have Been Reported and Contributions Paid by Its Client

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

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

AUTHORITY: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, 2401 and 2600 of the Unemployment Insurance Act [820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, 2401 and 2600].

SOURCE: Adopted at 6 Ill. Reg. 3863, effective March 31, 1982; amended at 7 Ill. Reg. 13266, effective September 28, 1983; recodified at 8 Ill. Reg. 15027; amended at 11 Ill. Reg. 3972, effective February 23, 1987; amended at 11 Ill. Reg. 11743, effective June 26, 1987; amended at 11 Ill. Reg. 12882, effective July 22, 1987; emergency amendment at 12 Ill. Reg. 225, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11740, effective July 5, 1988; amended at 12 Ill. Reg. 17342, effective October 12, 1988; amended at 12 Ill. Reg. 20484, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 11911, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17410, effective October 30, 1989; amended at 14 Ill. Reg. 6218, effective April 16, 1990; amended at 14 Ill. Reg. 19886, effective November 29, 1990; amended at 15 Ill. Reg. 185, effective December 28, 1990; amended at 15 Ill. Reg. 11122, effective July 19, 1991; amended at 16 Ill. Reg. 2131, effective January 27, 1992; amended at 16 Ill. Reg. 12165, effective July 20, 1992; amended at 17 Ill. Reg. 308, effective December 28, 1992; amended at 17 Ill. Reg. 614, effective January 4, 1993; amended at 17 Ill. Reg. 10275, effective June 29, 1993; emergency amendment at 17 Ill. Reg. 13801, effective August 20, 1993, for a maximum of 150 days; emergency expired January 1, 1994; amended at 18 Ill. Reg. 14952, effective September 27,

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

1994; emergency amendment at 19 Ill. Reg. 16113, effective November 13, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4307, effective February 29, 1996; amended at 25 Ill. Reg. 2011, effective January 18, 2001; emergency amendment at 29 Ill. Reg. 6788, effective April 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 13988, effective September 1, 2005; amended at 33 Ill. Reg. 9658, effective July 1, 2009; emergency amendment at 36 Ill. Reg. 18968, effective December 17, 2012 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2506, effective February 11, 2013 through June 30, 2013; amended at 37 Ill. Reg. 7471, effective May 14, 2013; emergency amendment at 38 Ill. Reg. 22262, effective November 17, 2014, for a maximum of 150 days; emergency expired April 15, 2015; amended at 39 Ill. Reg. 10768, effective July 27, 2015; amended at 43 Ill. Reg. 1585, effective January 15, 2019; expedited correction at 43 Ill. Reg. \_\_\_\_\_, effective January 15, 2019.

## SUBPART B: EXPERIENCE RATING

**Section 2765.200 Transfer of Trade or Business Subject to Section 1507.1 of the Act**

- a) Within 30 days after the date of any transfer to which Section 1507.1(A)(1) of the Act applies, the transferor and transferee shall provide the Department the number of covered workers employed by the transferor on the last day of business immediately preceding the date of transfer and the number of those workers transferred to the transferee.
- b) In the case of a transfer to which Section 1507.1 (A)(1) of the Act applies:
  - 1) Of the benefit charges that were incurred by the transferor, and wages that were paid by the transferor for insured work, for each calendar quarter prior to the quarter in which the transfer takes effect:
    - A) the percentage apportioned to the transferee shall equal the percentage of the covered workers transferred to the transferee; and
    - B) the percentage apportioned to the transferor shall equal;
      - i) the difference between 100% and the percentage apportioned to the transferee pursuant to this subsection (b)(1); or

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- ii) in the case of multiple transferees, the difference between 100% and the percentage apportioned to the transferees pursuant to this subsection (b)(1).
- 2) Of the benefit charges that were incurred by the transferor, and wages that were paid by the transferor for insured work prior to the transfer, for the calendar quarter in which the transfer takes effect;
  - A) the percentage apportioned to the transferee shall equal the percentage of the covered workers transferred to the transferee multiplied by the quotient obtained by dividing the number of the days elapsed in the quarter as of the day of the transfer, including the day of the transfer, by the total number of days in the quarter, rounded to the nearest multiple of .0001% (e.g., if the transfer occurred on November 7, the quotient would be 41.3043% because the transfer occurs on the 38<sup>th</sup> day of the quarter and there are 92 days in that quarter); and
  - B) the percentage apportioned to the transferor shall equal:
    - i) the difference between 100% and the percentage apportioned to the transferee pursuant to this subsection (b)(2); or
    - ii) in the case of multiple transferees, the difference between 100% and the percentage apportioned to the transferees pursuant to this subsection (b)(2).

**EXAMPLE:** On November 7, 2017, Employer A transfers 30.0000% of its covered workers to Employer B. At the time of the transfer, there was substantial common ownership, management, or control of Employers A and B. Thirty percent of the benefit charges incurred by A, and 30.0000% of the wages paid by A for insured work, for all quarters prior to the 4<sup>th</sup> quarter of 2017, will be transferred to Employer B. For the 4<sup>th</sup> quarter of 2017, since there are 92 days in the quarter, and since the transfer occurred on the 38<sup>th</sup> day of the quarter, 12.3913% of the benefit charges Employer A incurred, and 12.3913% of the wages Employer A paid for insured work, prior to the transfer, for the quarter (30.0000% of 41.3043%) will be

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apportioned to Employer B. The remainder will be apportioned to Employer A.

- 3) For purposes of this subsection (b), the percentage of covered workers transferred to the transferee shall equal the number of covered workers employed by the transferor on the last day of business immediately preceding the date of transfer divided ~~into~~<sup>by</sup> the number of those workers transferred to the transferee. The percentage shall be calculated to the nearest multiple of .0001% and, if equally near to 2 multiples of .0001%, increased to the higher multiple of .0001%;

EXAMPLE: Employer A has 165 covered workers as of November 6, 2017. On November 7, 2017, Employer A transfers 11 of those workers to Employer B. The percentage of the covered workers transferred to Employer B equals 6.6667 percent (11 divided by 165 equals 0.06666667 calculated to 8 decimal places and equals 6.6667% rounded to the nearest multiple of .0001%).

- 4) As of the effective date of the transfer, the transferor and transferee shall each be considered to have been liable for the payment of contributions during each calendar year during which the transferor was liable for the payment of contributions.

EXAMPLE: Employer A incurred liability for the payment of contributions in each of the calendar years 2010 through 2017. Prior to the transfer, Employer B incurred liability for the payment of contributions in calendar year 2017. On May 7, 2017, Employer A transfers a portion of its trade or business to Employer B. At the time of the transfer, there was substantial common ownership, management, or control of Employers A and B. As a result, Employers A and B will have incurred liability for the payment of contributions in each of the calendar years 2010 through 2017.

(Source: Amended at 43 Ill. Reg. 1585, effective January 15, 2019; expedited correction at 43 Ill. Reg. \_\_\_\_\_, effective January 15, 2019)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Illinois Oil and Gas Act
- 2) Code Citation: 62 Ill. Adm. Code 240
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
240.1805	Amendment
240.1880	New Section
240.1890	New Section
240.1892	New Section
240.1894	New Section
- 4) Date Notice of Proposed published in the *Illinois Register*: 43 Ill. Reg. 1362; January 25, 2019
- 5) Reason for the Withdrawal: The Department wishes to withdraw this proposed rulemaking to consolidate amendments for underground natural gas storage in Illinois pursuant to PA 100-1172.

5/8/19

Department of Healthcare and Family Services,  
Medical Payment (89 Ill. Adm. Code 14043)

7/20/18  
42 Ill. Reg  
14043

4/9/19

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of March 19, 2019 through March 25, 2019. These rulemakings are scheduled for the April 9, 2019 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
5/2/19	<u>Department of Public Health</u> , Alzheimer's Disease and Related Dementias Services Code (77 Ill. Adm. Code 973)	11/2/18 42 Ill. Reg. 19510	4/9/19
5/4/19	<u>Illinois Commerce Commission</u> , Regulatory Accounting Treatment for Cloud Based Computing Solutions (83 Ill. Adm. Code 289)	7/6/18 42 Ill. Reg 12369.	4/9/19
5/4/19	<u>Department of Revenue</u> , Board of Appeals (86 Ill. Adm. Code 210)	1/11/19 43 Ill. Reg 973.	4/9/19
5/4/19	<u>Department of Revenue</u> , Hotel Operator's Occupation Tax Act (86 Ill. Adm. Code 480)	6/1/18 42 Ill. Reg 88040	4/9/19
5/8/19	<u>Department of Natural Resources</u> , Camping on Department of Natural Resources Properties (17 Ill. Adm. Code 130)	1/25/19 43 Ill. Reg 1351	4/9/19
5/8/19	<u>Department of Revenue</u> , Retailers' Occupation Tax(86 Ill. Adm. Code 130)	5/25/18 42 Ill. Reg 8404	4/9/19

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

- 2765.65 Waiver Of Interest Or Penalty  
2765.66 Waiver Of Interest Accruing Because Of Certain Types Of Employees For  
Periods Prior To January 1, 1988  
2765.67 Partial Waiver Of Interest Where An Employer Has Erroneously Reported Wages  
To The Wrong State  
2765.68 Waiver of Penalty for Certain Employers for 1987 and Thereafter Wage Reports  
2765.69 Partial Waiver Of Interest Where An Employer Has Erroneously Paid Its Federal  
Unemployment Tax Act (FUTA) Tax In Full But Has Failed To Pay Its Illinois  
Unemployment Insurance Contributions  
2765.70 Waiver Of Interest For Certain Nonprofit Organizations or Local Governmental  
Entities  
2765.71 Waiver of Interest Accruing Due to a Delay in the Issuance of a Decision on a  
Protested Determination and Assessment  
2765.73 Waiver of Penalties and Interest for Certain Nonprofit Organizations  
2765.74 Time for Paying or Filing Delayed Payment or Report  
2765.75 Application for Waiver  
2765.80 Approval Of Application For Waiver  
2765.85 Insufficient or Incomplete Application  
2765.90 Disapproval Of Application Conclusive  
2765.95 Appeal And Hearing

## SUBPART B: EXPERIENCE RATING

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

## SUBPART C: BENEFIT CHARGES

- Section  
2765.325 Application Of "30 Day" Requirement For Determining The Chargeable  
Employer Pursuant To Section 1502.1 Of The Act

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 43, Issue 14 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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