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Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the deadline to submit your January 2020 Regulatory Agenda will occur on Thursday, January 2, 2020.

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 2020

	Issue#	Rules Due Date	Date of Issue	
	1	December 23, 2019	January 3, 2020	
	2	December 30, 2019	January 10, 2020	
	3	January 6, 2020	January 17, 2020	
	4	January 13, 2020	January 24, 2020	
	5	January 21, 2020	January 31, 2020	
	6	January 27, 2020	February 7, 2020	
	7	February 3, 2020	February 14, 2020	
	8	February 10, 2020	February 21, 2020	
	9	February 18, 2020	February 28, 2020	
	10	February 24, 2020	March 6, 2020	
	11	March 2, 2020	March 13, 2020	
	12	March 9, 2020	March 20, 2020	
	13	March 16, 2020	March 27, 2020	
	14	March 23, 2020	April 3, 2020	
	15	March 30, 2020	April 10, 2020	
	16	April 6, 2020	April 17, 2020	
	17	April 13, 2020	April 24, 2020	
	18	April 20, 2020	May 1, 2020	
	19	April 27, 2020	May 8, 2020	
	20	May 4, 2020	May 15, 2020	
	21	May 11, 2020	May 22, 2020	

	22	May 18, 2020	May 29, 2020	
	23	May 26, 2020	June 5, 2020	
	24	June 1, 2020	June 12, 2020	
	25	June 8, 2020	June 19, 2020	
	26	June 15, 2020	June 26, 2020	
	27	June 22, 2020	July 6, 2020	
	28	June 29, 2020	July 10, 2020	
	29	July 6, 2020	July 17, 2020	
	30	July 13, 2020	July 24, 2020	
	31	July 20, 2020	July 31, 2020	
	32	July 27, 2020	August 7, 2020	
	33	August 3, 2020	August 14, 2020	
	34	August 10, 2020	August 21, 2020	
	35	August 17, 2020	August 28, 2020	
	36	August 24, 2020	September 4, 2020	
	37	August 31, 2020	September 11, 2020	
	38	September 8, 2020	September 18, 2020	
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	40	September 21, 2020	October 2, 2020	
	41	September 28, 2020	October 9, 2020	
	42	October 5, 2020	October 16, 2020	
	43	October 13, 2020	October 23, 2020	
	44	October 19, 2020	October 30, 2020	
	45	October 26, 2020	November 6, 2020	
	46	November 2, 2020	November 13, 2020	
	47	November 9, 2020	November 20, 2020	
	48	November 16, 2020	November 30, 2020	
	49	November 23, 2020	December 4, 2020	
	50	November 30, 2020	December 11, 2020	
	51	December 7, 2020	December 18, 2020	
	52	December 14, 2020	December 28, 2020	

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Adult Protection and Advocacy Services
- 2) Code Citation: 89 Ill. Adm. Code 270
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
270.15	New Section
270.250	Amendment
- 4) Statutory Authority: Implementing the Adult Protective Services Act [320 ILCS 20] and Section 4.04 of the Illinois Act on the Aging [20 ILCS 105] and authorized by Section 4.01(11) of the Illinois Act on the Aging [20 ILCS 105/4.01(11)]. Also implementing Section 10-75 of the Illinois Administrative Procedure Act (APA) [5 ILCS 100].
- 5) A Complete Description of the Subjects and Issues Involved: Updates Section 270.250 relating to the assessment conducted on reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect of an older adult or person with disabilities based on PA 101-496. Adds procedures for electronic service requirements required by the APA.
- 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? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or enlarge any State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments on this proposed rulemaking within 45 days after the date of publication of this Notice to:

Tracey Trigillo
Deputy General Counsel
Illinois Department on Aging

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

One Natural Resources Way, #100
Springfield IL 62702-1271

217/785-3346
Tracey.Trigillo@Illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Provider agencies under the Adult Protective Services Program will be affected by this rulemaking.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: The proposed rulemaking regarding procedures for electronic service requirements was not anticipated at the time of filing the July 2019 Regulatory Agenda.

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

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGINGPART 270
ADULT PROTECTION AND ADVOCACY SERVICES

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270.10

Summary and Purpose

[270.15](#)[Communications or Service by Verifiable Electronic Methods](#)

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Section

270.100

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270.105

Definitions

270.110

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270.115

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270.120

Access to Resident Records (Repealed)

270.130

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270.132

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270.134

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270.136

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270.138

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270.140

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Access to Resident and Participant Information and Records

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270.158

Grievances Against an Ombudsman Related to the Performance of Duties

270.160

Multi-disciplinary Teams for Ombudsman Program

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NOTICE OF PROPOSED AMENDMENTS

270.162 Immunity

SUBPART C: ADULT PROTECTIVE SERVICES PROGRAM

Section

- 270.200 Purpose and Program Model
- 270.205 Adult Protective Services Program
- 270.210 Definitions
- 270.215 Organizational Standards and Responsibilities: Department on Aging
- 270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies
- 270.221 Elder Abuse Fatality Review Teams (Repealed)
- 270.225 Organizational Standards and Responsibilities: Adult Protective Services Provider Agencies
- 270.226 Public Awareness and Education
- 270.230 Abuse Reporting
- 270.235 Immunity
- 270.240 Intake of Abuse, Neglect, Financial Exploitation, or Self-Neglect Reports
- 270.241 Reporting a Suspicious Death
- 270.245 Access to Alleged Victims and Relevant Records
- 270.250 Minimum Assessment and Classification Standards
- 270.255 Abuse, Neglect, Financial Exploitation, or Self-Neglect Case Work, Follow-Up, Referrals and Case Closure
- 270.260 Authority to Consent and Court Petitions
- 270.265 Early Intervention Services
- 270.270 Multi-disciplinary Teams
- 270.275 Confidentiality and Disclosure

SUBPART D: ADULT PROTECTIVE SERVICES VOLUNTEER CORPS

Section

- 270.280 Definitions
- 270.285 Selection and Screening
- 270.290 Training
- 270.295 Volunteer Agreement and Volunteer Responsibilities
- 270.300 Activities and Supervision

SUBPART E: ADULT PROTECTIVE SERVICE REGISTRY

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

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270.400	Purpose of the Registry
270.402	Definitions
270.404	Access to and Use of the Registry
270.406	Notice to Eligible Adult, Guardian or Agent
270.408	Notice to the Caregiver's Employer
270.410	Notice to Long Term Care Facilities and Ombudsman
270.412	Verified and Substantiated Finding and Notice to Caregiver
270.414	Initiation of an Appeal
270.416	Collateral Action
270.418	Confidentiality
270.420	Removal from Registry
270.422	Initial and Amended Pleadings
270.424	Service
270.426	Answer
270.428	Representation
270.430	Venue and Testimony by Telephonic or Other Electronic Means
270.432	Pre-hearing Conferences
270.434	Consolidation of Matters for Hearing
270.436	Continuances
270.438	Motions
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270.442	Discovery; Exchange of Information
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270.446	Witness Testimony
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270.452	Administrative Law Judge Qualifications, Potential Disqualification, and Authority
270.454	Translators and Accommodations
270.456	Costs
270.458	Improper or Ex Parte Communications
270.460	Variances
270.462	Waiver
270.464	Failure to Appear
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270.468	Withdrawal of a Matter
270.470	Post-hearing Motions and Briefs
270.472	Administrative Hearing Record

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270.474 Final Administrative Decision
270.476 Appeal of Department Decisions

SUBPART F: FATALITY REVIEW TEAMS

Section
270.500 Fatality Review Team Advisory Council
270.505 Regional Interagency Fatality Review Teams

AUTHORITY: Implementing the Adult Protective Services Act [320 ILCS 20] and Section 4.04 of the Illinois Act on the Aging [20 ILCS 105] and authorized by Section 4.01(11) of the Illinois Act on the Aging.

SOURCE: Adopted at 21 Ill. Reg. 8887, effective July 1, 1997; amended at 25 Ill. Reg. 5259, effective April 1, 2001; amended at 26 Ill. Reg. 3964, effective March 15, 2002; expedited correction at 26 Ill. Reg. 8482, effective March 15, 2002; amended at 30 Ill. Reg. 8913, effective April 28, 2006; amended at 35 Ill. Reg. 8180, effective May 12, 2011; emergency amendment at 38 Ill. Reg. 2357, effective December 31, 2013, for a maximum of 150 days; emergency expired May 29, 2014; amended at 39 Ill. Reg. 2156, effective January 23, 2015; amended at 42 Ill. Reg. 6659, effective April 2, 2018; amended at 42 Ill. Reg. 9226, effective July 1, 2018; emergency amendment at 43 Ill. Reg. 787, effective January 1, 2019, for a maximum of 150 days; amended at 43 Ill. Reg. 980, effective January 1, 2019; amended at 43 Ill. Reg. 5756, effective April 30, 2019; amended at 44 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 270.15 Communications or Service by Verifiable Electronic Methods

Unless otherwise specified, the following procedures for communications and service of documents and other information by verifiable electronic methods (collectively referred to as "service") shall be followed for this Part:

- a) The Department may provide service upon an individual (with the individual's consent) and its authorized or legal representative at designated email addresses. An individual's authorized or legal representative shall designate at least one email address and may designate up to 2 additional email addresses (for up to a total of 3 email addresses) at which service is accepted. The individual and its authorized or legal representatives must immediately notify the Department of a change of email address and provide an annual verification of the relevant email

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

addresses. Service by email is effective at the time of the transmission and will be deemed confirmed if a failure to deliver message is not received.

- b) If the Department receives notification that service to all designated email addresses fails, the Department will accomplish service by some other means such as First-Class Mail to the last mailing address provided by the individual and its authorized or legal representative.

(Source: Added at 44 Ill. Reg. _____, effective _____)

SUBPART C: ADULT PROTECTIVE SERVICES PROGRAM

Section 270.250 Minimum Assessment and Classification Standards

- a) *An APS provider agency designated to receive reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect under the Act shall conduct a face-to-face assessment with respect to such report. The assessment shall include, but not be limited to, a visit to the residence of the alleged victim who is the subject of the report and ~~shall~~ include interviews or consultation regarding the allegations with service agencies, immediate family members, and ~~or~~ individuals who may have knowledge of the alleged victim's circumstances based on the consent of the eligible adult in all instances, except when the provider agency is acting in the best interest of an eligible adult who is unable to seek assistance for himself or herself and when there are allegations against a caregiver who has assumed responsibilities in exchange for compensation. [320 ILCS 20/5(a)]*
- b) A decision on the merits of each report must be made according to the following:
- 1) **Verified:** When clear and convincing evidence results in a determination that the specific injury or harm alleged was the result of abuse, neglect or financial exploitation.
 - 2) **Some Indication:** When the preponderance of the evidence suggests some indication that abuse, neglect, financial exploitation, or self-neglect has occurred.
 - 3) **No Indication:** When there is a lack of credible evidence indicating that abuse, neglect, financial exploitation, or self-neglect has occurred.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- 4) Unable to Verify: This determination is used when the report does not meet the eligibility criteria of the program, the APS provider agency is unable to locate the alleged victim, the APS provider agency staff has been unable to gain access to the alleged victim, or the alleged victim refuses the assessment.
- c) Each report has to be either substantiated, unsubstantiated or unable to substantiate, as follows:
- 1) Substantiated: When one or more of the alleged types of abuse, neglect, financial exploitation, or self-neglect was classified as either "verified" or "some indication".
 - 2) Unsubstantiated: When all of the alleged types of abuse, neglect, financial exploitation, or self-neglect were determined to lack credible evidence that indicated abuse, neglect, financial exploitation, or self-neglect.
 - 3) Unable to substantiate: When the APS provider agency lacked jurisdiction; was unable to locate the alleged victim; was unable to access the alleged victim; the alleged victim was ineligible for services; the alleged victim refused to cooperate; or the alleged victim was deceased.
- d) If, after the assessment, the APS provider agency determines that the case is substantiated and the victim has consented to services, it shall develop a service care plan for the eligible adult.
- e) The APS provider agency shall prepare a confidential case record to document each report of abuse, neglect, financial exploitation, or self-neglect to include the following information when available and applicable to the case:
- 1) essential client information, such as name, address, age and phone number;
 - 2) descriptions of the reported, suspected or alleged abuse, neglect, financial exploitation, or self-neglect;
 - 3) investigative reports;

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

- 4) injury location charts;
 - 5) records of financial transactions;
 - 6) summaries of conversations and communications with the eligible adult, the alleged or suspected abuser, and other sources of information;
 - 7) information relating to the mental competency of the eligible adult;
 - 8) information on the assessment of the eligible adult, including medical or psychiatric reports;
 - 9) summaries of the substantiation decision;
 - 10) summaries of services or interventions offered or arranged;
 - 11) reports on the termination, resolution or closure of the case;
 - 12) referrals to law enforcement, coroners or medical examiners;
 - 13) notification to the probate court of a substantiated finding of abuse, neglect, or financial exploitation by a guardian; and
 - 14) suspicious death reports and any follow-up documentation.
- f) An APS provider agency shall prepare a final investigative report, upon the completion or closure of an investigation, in all cases of reported abuse, neglect, financial exploitation, or self-neglect of an eligible adult, whether or not there is a substantiated finding.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Cannabis Social Equity Program
- 2) Code Citation: 14 Ill. Adm. Code 650
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
650.10	New Section
650.15	New Section
650.20	New Section
650.25	New Section
650.30	New Section
650.35	New Section
650.40	New Section
650.45	New Section
- 4) Statutory Authority: Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705/1-10 and 7-15] and the Department of Commerce and Economic Opportunity Law [20 ILCS 605/605-55].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules implement provisions of the Cannabis Regulation and Tax Act relating to Social Equity Applicants for the various licenses authorized by PA 101-27. The proposed rules identify the eligibility requirements and process for applying for funding under the Cannabis Social Equity Program.
- 6) Published studies or reports, and sources of underlying data, used to compose 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? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures from local revenues.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED RULES

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments regarding these rules shall be presented in writing within 45 days after the date of this issue of the *Illinois Register* to:

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

217/557-1820
fax: 217/524-3701
jolene.clarke@illinos.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on any Regulatory Agenda because the enabling legislation was not signed into law in time to include on the July agenda.

The full text of the Proposed Rules is identical to that of the text of the Emergency Rules for this Part, and begins in this issue of the *Illinois Register* on page 292.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Safe Operation of Nuclear Facility Boilers and Pressure Vessels
- 2) Code Citation: 32 Ill. Adm. Code 505
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
505.20	Amendment
505.30	Amendment
505.40	Amendment
505.80	Amendment
505.86	Amendment
505.90	Amendment
505.1800	Amendment
505.2400	Amendment
505.2500	Amendment
- 4) Statutory Authority: Implementing and authorized by the Nuclear Safety Law of 2004 [20 ILCS 3310/25], Sections 2a and 2b of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2a and 2b] and Section 8(a)(8) of the Illinois Nuclear Safety Preparedness Act [420 ILCS 5/8(a)(8)].
- 5) A Complete Description of the Subjects and Issues Involved: IEMA is proposing these amendments to update Part 505 to current standards to align with industry; update contact information; and to make changes for clarification.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill Adm. Code 100.355: No
- 7) Will this rulemaking replace an 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
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand or modify their activities in such a way as to necessitate additional expenditures from local revenues.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. The Agency will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Traci Burton, Paralegal Assistant
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

217/785-9860

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not-for-profit corporations affected: The Agency believes that this rulemaking will have no direct impact on any small businesses, small municipalities or not-for-profit corporations.
 - 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 does not affect small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 32: ENERGY

CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY

SUBCHAPTER c: NUCLEAR FACILITY SAFETY

PART 505

SAFE OPERATION OF NUCLEAR FACILITY BOILERS AND PRESSURE VESSELS

SUBPART A: GENERAL

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505.10	Scope
505.20	Policy
505.30	Definitions
505.40	Standards Incorporated by Reference
505.50	Exemptions
505.60	Access to Facilities and Documents
505.70	Notification of Failures
505.80	Administrative Review and Hearings – Inspection Certificates
505.82	Administrative Review and Hearings – Authorized Inspection Agency
505.84	Administrative Review and Hearings – Special Permits
505.86	Actions Pending Before the United States Nuclear Regulatory Commission
505.90	Address and Telephone Number for Notifications and Inquiries
505.100	Standards for Design, Construction, Operation and Inspection (general)
505.110	Registration Requirements (general)
505.120	Inspection Certificates (general)
505.130	Operation Requirements (general)
505.140	Inspection Requirements (general)
505.150	Repairs and Alterations (general)
505.160	Code Case Applications (general)
505.170	Use of Alternative Standards for Construction, Inspection and Repair (general)
505.180	Authorized Inspectors (general)
505.190	Authorized Inspection Agencies (general)

SUBPART B: ISI BOILERS AND PRESSURE VESSELS

Section	
505.1000	Standards for Design, Construction, Operation and Inspection
505.1100	Registration Requirements
505.1200	Inspection Certificates

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

505.1300	Operation Requirements
505.1400	Inspection Requirements
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505.1600	Code Case Applications
505.1700	Use of Alternative Standards for Construction, Inspection and Repair
505.1800	Authorized Inspectors
505.1900	Authorized Inspection Agencies

SUBPART C: NON-ISI BOILERS AND PRESSURE VESSELS

Section	
505.2000	Standards for Design, Construction, Operation and Inspection
505.2100	Registration Requirements
505.2200	Inspection Certificates
505.2300	Operation Requirements
505.2400	Inspection Requirements
505.2500	Repairs and Alterations
505.2600	Code Case Applications
505.2700	Use of Alternative Standards for Construction, Inspection and Repair
505.2800	Authorized Inspectors
505.2900	Authorized Inspection Agencies

AUTHORITY: Implementing and authorized by the Nuclear Safety Law of 2004 [20 ILCS 3310/25], Sections 2a and 2b of the Boiler and Pressure Vessel Safety Act [430 ILCS 75] and Section 8(a)(8) of the Illinois Nuclear Safety Preparedness Act [420 ILCS 5].

SOURCE: Emergency Rule adopted at 17 Ill. Reg. 15667, effective September 10, 1993, for a maximum of 150 days; adopted at 18 Ill. Reg. 2317, effective February 7, 1994; amended at 20 Ill. Reg. 6455, effective April 26, 1996; amended at 23 Ill. Reg. 13089, effective October 6, 1999; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 27 Ill. Reg. 15339, effective September 16, 2003; amended at 33 Ill. Reg. 4345, effective March 9, 2009; amended at 41 Ill. Reg. 645, effective January 4, 2017; amended at 44 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 505.20 Policy

- a) Pursuant to the Boiler and Pressure Vessel Safety Act [430 ILCS 75] and the

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Nuclear Safety Law of 2004 [20 ILCS 3310], the Agency has sole jurisdiction over all boilers and pressure vessels contained within or upon or in connection with any nuclear facility within this State and has the same powers and duties as the State Fire Marshal and the Board of Boiler and Pressure Vessel Rules with regard to those boilers and pressure vessels. ~~It is the intent of the Illinois Emergency Management Agency to implement this program in accordance with State law that provides that notwithstanding any other provision to the contrary, the Illinois Emergency Management Agency shall have sole jurisdiction over all boilers and pressure vessels contained within or upon or in connection with any nuclear facility within this State. The Illinois Emergency Management Agency shall have the same authority and shall have and exercise the same powers and duties in relation to those boilers and pressure vessels under the Boiler and Pressure Vessel Safety Act as the Board of Boiler and Pressure Vessel Rules or the State Fire Marshal have and exercise in relation to all boilers and pressure vessels in this State that are not included in this Section. [430 ILCS 75/2a]~~

- b) It is the intent of the Agency that the boiler and pressure vessel safety program be implemented ~~This Part is intended to implement Sections 2a and 2b of the Boiler and Pressure Vessel Safety Act~~ in a manner consistent with the State role provided for in the ASME Code and National Board Inspection Code. The Agency intends to review Inservice Inspection Plans, reports and other documentation, as provided in this Part, to determine, in coordination and cooperation with the NRC, compliance with the ASME Code, National Board Inspection Code and other applicable codes and standards incorporated by reference in Section 505.40 ~~of this Part~~.
- c) This Part is not intended to be, in any way, inconsistent with the applicable regulations, rules and requirements of the NRC. If a requirement of this Part as applied in any situation is or would be inconsistent with the regulations, rules and requirements of the NRC, the requirements of this Part shall not be applied. In addition, if the application of any requirement of this Part could affect the safety or the operation of the nuclear facility, as determined by the NRC, the Agency shall apply the requirements only with the prior concurrence of the NRC, as provided for in Section 505.86.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 505.30 Definitions

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The following definitions shall apply to this Part:

"Act" means the Boiler and Pressure Vessel Safety Act [430 ILCS 75].

"Agency" means the Illinois Emergency Management Agency.

"Alteration" means a change to a boiler or pressure vessel made necessary by, or resulting in, a change in design requirements. Non-physical changes such as rerating of a boiler or pressure vessel shall be considered an alteration. The addition of nozzles smaller than a reinforced opening size shall not be considered an alteration.

"ANSI" means the American National Standards Institute, 1430 Broadway, New York NY 10018.

"Appurtenance" means an item attached to a stamped component that has work performed on it requiring verification by an Authorized Inspector.

"ASME" means the American Society of Mechanical Engineers, 345 E. 47th Street, New York NY 10017.

"ASME Code" means the American Society of Mechanical Engineers Boiler and Pressure Vessel Code with addenda thereof made, approved and adopted by the Council of the Society and adopted and incorporated by the Agency in Section 505.40. Copies of the ASME Code may be obtained from the American Society of Mechanical Engineers.

"ASME Code Case" or "Code Case" means a document published by ASME to clarify the intent of the ASME Code or to provide alternative requirements to those specifically indicated in the ASME Code due to special circumstances or for the use of new technology.

"Authorized Inspection Agency" means one of the following organizations:

A department or division established by a jurisdiction that has adopted one or more Sections of the ASME Code and whose inspectors hold valid commissions issued by the National Board of Boiler and Pressure Vessel Inspectors. In Illinois, the Division of Boiler and Pressure Vessel Safety of the Office of the State Fire Marshal (OSFM) is the jurisdiction, except

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for the City of Chicago; or

An insurance company that has been licensed or registered by the appropriate authority in the State of Illinois to write boiler and pressure vessel insurance in the State of Illinois; or

A company in the business of providing third party inspection services that has recognition from the State of Illinois to perform inspection and design reviews for boilers and pressure vessels; or

An owner of boilers or pressure vessels who maintains a regularly established inspection department, whose organization and inspection procedures meet the requirements established by OSFM.

"Authorized Inspector" means an individual who is employed by an authorized inspection agency and meets the requirements of Section 505.180.

"Boiler" means a closed vessel used to heat water or other liquids or to generate steam or other vapors under pressure or vacuum by the application of heat resulting from the combustion of fuels, electricity, atomic energy or waste gases.

"Power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig and includes water boilers operating at pressures exceeding 160 psig or temperatures exceeding 250° F at or near the boiler outlet.

"High pressure, high-temperature water boiler" means a water boiler operating at pressures exceeding 160 psig or temperatures exceeding 250° F at or near the boiler outlet.

"Heating boiler" means a steam heating boiler operated at pressures not exceeding 15 psig, or a hot water heating boiler operated at pressures not exceeding 160 psig or temperatures not exceeding 250° F at or near the boiler outlet.

"Hot water supply boiler" means a boiler (including fired storage water heater) furnishing hot water to be used externally to itself at pressures not exceeding 160 psig or temperatures not exceeding 250° F at or near the boiler outlet.

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"Certificate inspection" means an inspection, the report of which is used by the Agency as justification for issuing, withholding or revoking the Inspection Certificate.

"Condemned ~~boiler or pressure vessel~~" means any boiler or pressure vessel, including related appurtenances, that has been inspected and declared unsafe, or disqualified by legal requirements, by the Agency.

"Design pressure" means the pressure used in the design of a boiler or pressure vessel for the purpose of determining the minimum permissible thickness or physical characteristics (e.g., material properties) of different parts of the vessel, in accordance with design standards of the ASME Code.

"Director" means the Director of the Illinois Emergency Management Agency.

"External inspection" means as complete an examination as can reasonably be made of the external surfaces of a boiler or pressure vessel. This examination shall be made while it is in operation, if possible.

"Inoperative" means a boiler, pressure vessel or attached appurtenance that is no longer capable of functioning within its design requirements. The inability of support equipment to operate does not cause a boiler or pressure vessel to be considered inoperative.

"Inservice inspection interval" means the period of time during which inservice examinations and system pressure tests are performed, as defined by the owner in accordance with ASME Code Section XI.

"Inservice inspection period" means a subdivision of the inservice inspection interval, as defined by the owner in accordance with ASME Code Section XI.

"Inservice Inspection Plan" means the documents prepared by the owner in accordance with paragraph IWA-2420 of the edition and addenda of Section XI approved by the NRC for use by the plant (10 year plan).

"Inspection" means examination and evaluation of documents and hardware by an Authorized Inspector to determine conformance of an item or an activity to the requirements of this Part.

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"Inspection Certificate" means a certification issued by the Agency for the operation of a non-ISI boiler or pressure vessel or nuclear power system.

"Internal inspection" means as complete an examination as can reasonably be made of the internal surfaces of a boiler or pressure vessel while it is shut down and manhole plates, handhole plates or other inspection opening closures are removed as required by the Authorized Inspector.

"ISI boiler or pressure vessel" means any boiler or pressure vessel, including related appurtenances, that is in the owner's Inservice Inspection Plan.

"Maintenance" means routine activities conducted on an item that are performed and controlled in accordance with the owner's procedures, including minor restorative actions, that are not otherwise classified as a repair, replacement or alteration.

"Maximum Allowable Working Pressure" or "MAWP" means the maximum gauge pressure permissible (in accordance with the design requirements) at the top of a vessel in its operating position at the design temperature. This pressure is the least of those calculated for every element of the vessel using nominal thickness exclusive of allowances for corrosion and thickness required for loadings other than pressure. It is the basis for the pressure setting of the pressure relieving devices (e.g., pressure relief valves) protecting the vessel. The design pressure may be used in place of the maximum allowable working pressure in all cases for which calculations are not made to determine the value of the maximum allowable working pressure.

"National Board" means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus OH 43229.

"National Board Inspection Code" means the National Board Inspection Code published by the National Board and adopted and incorporated by the Agency in Section 505.40. Copies may be obtained from the National Board.

"NFPA" means the National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02269.

"Non-ISI boiler or pressure vessel" means any boiler or pressure vessel, including

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related appurtenances, that is not in the owner's Inservice Inspection Plan.

"Non-standard boiler or pressure vessel" means any boiler or pressure vessel, including related appurtenances, that does not bear the Certification Mark with appropriate designator.

"NRC" means the United States Nuclear Regulatory Commission or any agency that succeeds to its function in the licensing of nuclear power reactors or facilities, or facilities for spent nuclear fuel.

"Nuclear facility" means a nuclear power station. There may be one or more nuclear power systems at a nuclear power station.

"Nuclear power system" means all ISI boilers and pressure vessels in a unit, including their appurtenances, at a nuclear facility that are inspected in accordance with an Inservice Inspection Plan. Such components are generally associated with systems that serve the purpose of producing and controlling the output of thermal energy from nuclear fuel and associated systems essential to the function and overall safety of the nuclear power system.

"OSFM" means the Illinois Office of the State Fire Marshal.

"Outage" means temporary suspension of operation of a component or system to conduct actions such as maintenance, forced repairs or testing of equipment.

"Owner" means any organization, person, firm or corporation legally responsible for the safe operation of any boiler or pressure vessel at a nuclear facility within the State.

"PSIG" means pounds per square inch gauge and is a measure of pressure.

"Pressure relief valve" means a safety valve, relief valve or safety relief valve.

"Pressure vessel" means an enclosed vessel in which pressure is obtained from an external source, or by applying heat from an indirect source or from a direct source other than boilers as defined in this Section. Reactor containments are not considered pressure vessels.

"Quality Assurance Program" means a controlled system of planned and

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systematic actions required to provide adequate confidence that the items designed and constructed are in accordance with the rules of the ASME Code Section III; or all the planned and systematic actions necessary to provide adequate confidence that a structure, system or component will perform satisfactorily in service in accordance with Appendix B of 10 CFR 50 (2007), as applicable.

"Refueling outage" means temporary suspension of power production of the nuclear power system to conduct actions, including refueling the reactor. Refueling outages normally occur approximately every 2 years.

"Reinstalled ~~boiler or pressure vessel~~" means any boiler or pressure vessel, including related appurtenances, removed from its original setting and reinstalled at the same location or at a new location within the State of Illinois without change of ownership.

"Relief valve" means an automatic pressure relieving device, actuated by the static pressure upstream of the valve, that opens further with the increase in pressure over the opening pressure. It is used primarily for liquid service.

"Repair" means the process of restoring a nonconforming item by welding or brazing so that existing design requirements are met.

"Report of Inspection" means a report prepared by an Authorized Inspector that documents that a non-ISI boiler or pressure vessel meets the requirements of this Part for installation and periodic inspection.

"Reportable event" means any accident that either causes a boiler or pressure vessel to become inoperative due to damage from an explosion, catastrophic event or failure due to material condition, of either itself or an attached appurtenance, or results in death or bodily injury to a person.

"Rerated" or "Rerating" means alteration.

"Safety relief valve" means an automatic pressure actuated relieving device suitable for use as a safety or relief valve, depending on application.

"Safety valve" means an automatic pressure relieving device actuated by the static pressure upstream of the valve and characterized by full opening pop action. It is

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primarily used for gas or vapor service.

"State Special" means a boiler or pressure vessel, including related appurtenances, of special construction that may not be constructed in accordance with the ASME Code. See Sections 505.170, 505.1700 and 505.2700 for the procedures for granting a State Special.

"Technical specifications" means part of the Updated or Final Safety Analysis Report and Operating License issued by the NRC that designates safety limits, limiting safety system settings, limiting conditions for operation and surveillance requirements for the safe operation of the nuclear facility.

~~"Underwriters Laboratories" or "U.L." means the non profit independent organization testing for public safety. It maintains and operates laboratories for the examination and testing of devices, systems and materials to determine their relationship to life, fire and casualty hazards.~~

"Updated or Final Safety Analysis Report" means a report required by the NRC in accordance with 10 CFR 50.34 ~~(2015)~~.

"Welding" means a group of processes in which coalescence is produced by heating with an arc or arcs, with or without the application of pressure and with or without the use of filler metal.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 505.40 Standards Incorporated by Reference

The Agency hereby adopts and incorporates by reference the following codes and standards.

- a) ~~In accordance with the authority granted under Section 2a of the Act, the Agency adopts the~~ Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers with addenda thereto made. Those sections of the ASME Code listed in this Section are incorporated into ~~the and constitute a part of the whole rules and~~ regulations of the Agency.
 - 1) ASME Boiler and Pressure Vessel Code, 1952 Edition including all addenda and editions through the ~~2019 edition~~ 2015 Edition, for the following:

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~~AGENCY NOTE: The edition and addenda of the ASME Boiler and Pressure Vessel Code applicable to a particular component can be traced using the date of construction of the component in light of Sections 505.170, 505.1000 and 505.2000. For more information see Sections 505.170, 505.1000 and 505.2000.~~

- A) Section I, Rules for Construction of Power Boilers;
- B) Section II, Materials
 - Part A – Ferrous Material Specifications
 - Part B – Nonferrous Material Specifications
 - Part C – Specifications for Welding Rods, Electrodes and Filler Metals
 - Part D – Properties (Customary and Metric);
- C) Section III, Rules for Construction of Nuclear Facility Components
 - Subsection NCA – General Requirements for Division 1 and Division 2
 - Appendices
 - Division 2 – Code for Concrete Containments
 - Division 3 – ~~Containment Systems~~Containments for Transportation and Storage of Spent Nuclear Fuel and ~~High-Level~~High Level Radioactive Material ~~and Waste~~
 - Division 5 – High Temperature Reactors;
- D) Section IV, Rules for Construction of Heating Boilers;
- E) Section V, Nondestructive Examination;
- F) Section VI, Recommended Rules for the Care and Operation of

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Heating Boilers;

G) Section VII, Recommended Guidelines for the Care of Power Boilers;

H) Section VIII, Rules for Construction of Pressure Vessels

Division 1

Division 2 – Alternative Rules

Division 3 – Alternative Rules for Construction of High Pressure Vessels;

I) Section IX, Welding, Brazing, and Fusing Qualifications;

J) Section X, Fiber-Reinforced Plastic Pressure Vessels;

K) Section XII, Rules for Construction and Continued Service of Transport Tanks.

2) ASME Boiler and Pressure Vessel Code, editions and addenda referenced in 10 CFR 50.55a, ~~revised as of August 3, 2015~~, including all limitations and modifications contained therein, for the following:

A) Section III, Rules for Construction of Nuclear Facility Components, Division 1; and

B) Section XI, Rules for Inservice Inspection of Nuclear Power Plant Components, Division 1 – Rules for Inspection and Testing of Components of Light-Water-Cooled Plants.

~~AGENCY NOTE: The Agency will review programs at specific plants on the basis of the edition and addenda of Sections III and XI approved by the NRC for the specific plant.~~

b) ~~The Agency adopts the~~ National Board Inspection Code, ~~2019~~2015 edition, published by the National Board, except that "jurisdiction" shall be read as "Agency".

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- c) ~~The Agency adopts the following nationally recognized standards and their addenda:~~
- 1) ~~ASME CSD-1~~CSD~~, 2018~~2012~~ edition, Controls and Safety Devices for Automatically Fired Boilers; and~~
 - 2) ~~NFPA 85, 2015 edition, Boiler and Combustion Systems Hazards Code.~~
- d) NFPA 85, 2019 edition, Boiler and Combustion Systems Hazards Code.
- e) ~~The Agency adopts~~ ANSI/ASME N626, Qualification and Duties of Authorized Nuclear Inspection Agencies and Personnel, 1974 Edition including all addenda and editions through the N626b-1992 addendum. The Agency also adopts the successor standard to this standard, ASME QAI-1, Qualification for Authorized Inspection, 1995 edition, including all addenda and editions through the 2018~~2016~~ edition.
- ~~AGENCY NOTE: The edition and addenda of ANSI/ASME N626 or QAI-1 applicable to the qualifications of the authorized nuclear inspection agency and its personnel can be traced using the edition and addenda of the ASME Boiler and Pressure Vessel Code applicable to a particular component.~~
- f) For documents included in subsections (a) through (e), the Agency is incorporating only those editions and addenda indicated. The Agency is not incorporating any subsequent edition or addendum to these documents. All documents are available for public review, by appointment, at the Agency offices, 1035 Outer Park Drive, Springfield, Illinois.

~~AGENCY NOTE: This Section is applicable to the following nuclear power plants: Braidwood Station, Units 1 & 2; Byron Station, Units 1 & 2; Clinton Station, Unit 1; Dresden Station, Units 1, 2 & 3; LaSalle County Station, Units 1 & 2; Quad Cities Station, Units 1 & 2; and Zion Station, Units 1 & 2.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 505.80 Administrative Review and Hearings – Inspection Certificates

This Section shall apply to all actions by the Agency for noncompliance with this Part that

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potentially could impact upon the issuance, suspension or revocation of an Inspection Certificate required by this Part.

- a) When in any instance an Agency review reveals that an owner may not be in compliance with one or more requirements of this Part, the Agency will notify the owner in writing of those facts and circumstances known to the Agency that give rise to the inference that the owner is not in compliance. If the facts and circumstances giving rise to the inference involve only boilers and pressure vessels that the NRC has determined are not within NRC's jurisdictional authority, subsection (c) shall apply and subsection (b) shall not apply. If the facts and circumstances giving rise to the inference involve any other boiler, pressure vessel or nuclear power system, subsection (b) shall apply and subsection (c) shall not apply.
- b) Simultaneously with the notification provided for in subsection (a), the Agency will notify the NRC in writing of those facts and circumstances known to the Agency that give rise to the inference that the owner is not in compliance. If the owner fails to demonstrate to the Agency that the owner is in compliance within 10 days after the notification, the Agency shall provide to the NRC a written request, pursuant to 10 CFR 2.200-~~(1997)~~, that the NRC take appropriate action, e.g., pursuant to 10 CFR 2.206-~~(2015)~~. The request will specify the NRC action or actions that the Agency is requesting.
- c) If the owner fails to demonstrate to the Agency that the owner is in compliance within 10 days after the notification provided for in subsection (a), the Agency shall issue a Preliminary Order and Notice of Opportunity for Hearing in accordance with 32 Ill. Adm. Code 200.
 - 1) If, after the hearing, the Director finds that the owner or organization was in compliance with the requirements of this Part, the Director shall issue to the owner an Order of Compliance or issue such other order as appropriate.
 - 2) If, after the hearing or default, the Director finds that the owner is not in compliance with the requirements of this Part, the Director will render a final decision which may include denying an application for, or suspending or revoking, an affected Inspection Certificate.
- d) All final administrative decisions of the Director under this Part shall be subject to

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the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 505.86 Actions Pending Before the United States Nuclear Regulatory Commission

Whenever any person brings an action before the NRC pursuant to 10 CFR 2.200-(1997) alleging that ~~an Agency~~ ~~departmental~~ application of a requirement of this Part could affect the safety or the operation of a nuclear facility, the Agency shall not apply or enforce the requirement until such time as the NRC concurs in the application or enforcement or until the NRC otherwise finds and notifies the Agency that the application of the requirement could not affect the safety or the operation of the nuclear facility.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 505.90 Address and Telephone Number for Notifications and Inquiries

Written reports or communications concerning or required by this Part shall be addressed to:

[Illinois Emergency Management Agency](#)
[ATTN: Nuclear Facility Inspection](#)
[1035 Outer Park Drive](#)
[Springfield, IL 62704](#)

~~Nuclear Facility Inspection Section, Bureau of Nuclear Facility Safety, Illinois Emergency Management Agency, 1035 Outer Park Drive, Springfield, Illinois 62704.~~ The Agency may be reached by telephone at (217)782-2700 or for 24-hour response at (800)782-7860.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART B: ISI BOILERS AND PRESSURE VESSELS

Section 505.1800 Authorized Inspectors

In order to perform the duties of an Authorized Inspector for ISI boilers and pressure vessels or nuclear power systems at nuclear facilities within the State, the individual shall, in addition to the requirements of Section 505.180, possess a current Inservice Commission (IS) and one of the following specialized qualifications, referred to as endorsements, issued by the National Board:

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- a) Authorized Nuclear Inservice Inspector (I); or
- b) Authorized Nuclear Inservice Inspector Supervisor (~~NSINSI~~).

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART C: NON-ISI BOILERS AND PRESSURE VESSELS

Section 505.2400 Inspection Requirements

- a) If, upon an external inspection, there is evidence of a leak or crack, enough of the covering of the non-ISI boiler or pressure vessel shall be removed so that the Authorized Inspector may determine the condition of the non-ISI boiler or pressure vessel. If removing the covering could create a situation which could affect the operability or safety of the vessel, the limitations of Section 505.20(c) of this Part shall apply.
- b) Owners shall permanently maintain inspection ~~reports~~ data and supporting documents throughout the lifetime of the equipment.
- c) In addition to the requirements of this Section, owners shall meet the requirements of Section 505.140 ~~of this Part~~.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 505.2500 Repairs and Alterations

Repairs and alterations of non-ISI boilers and pressure vessels, and repairs of pressure relief valves associated with non-ISI boilers and pressure vessels, except boilers and pressure vessels and those pressure relief valves associated with boilers and pressure vessels that are exempt under Section 505.50(a), shall be made in accordance with this Section. The requirements of this Section are subject to the limitations of Section 505.20(c).

- a) Non-ISI boilers and pressure vessels that are repaired or altered shall be repaired or altered in accordance with the National Board Inspection Code or this subsection (a). The requirements of this subsection (a) are limited to welded repairs and welded and non-welded alterations of non-ISI boilers and pressure vessels. When requirements for a repair or alteration are not given, it is intended that, subject to approval of the Authorized Inspector, details of design and

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construction, insofar as practical, will be consistent with the ASME Code for boilers and pressure vessels constructed to the ASME Code, or the code to which the item was originally constructed for boilers and pressure vessels not constructed to the ASME Code or the repair or alteration rules of the National Board Inspection Code.

- 1) All non-ISI boilers and pressure vessels covered by the Act that are repaired shall be repaired by one of the following organizations:
 - A) An owner and those organizations under contract to the owner, provided that:
 - i) the repairs are made in accordance with a Quality Assurance Program that meets the requirements of 10 CFR 50 Appendix B (2007) and has been approved by the NRC;
 - ii) all portions of the owner's 10 CFR 50 Appendix B Quality Assurance Program, referenced in subsection (a)(1)(A)(i), that are applicable to a repair activity are applied to the repair; and
 - iii) the owner notifies the Agency of its intention to apply 10 CFR 50 Appendix B Quality Assurance Program, referenced in subsection (a)(1)(A)(i), to the repair of boilers and pressure vessels. This notification only needs to be given once for all repairs of boilers and pressure vessels performed under the owner's 10 CFR 50 Appendix B Quality Assurance Program at the nuclear facility.

AGENCY NOTE: The application of the owner's 10 CFR 50 Appendix B Quality Assurance Program, referenced in subsections (a)(1)(A)(i), (ii) and (iii), is subject to review by the Authorized Inspector.
 - B) An organization in possession of a valid "R" Certificate of Authorization issued by the National Board.
 - C) An organization authorized by the Division of Boiler and Pressure Vessel Safety, Office of the State Fire Marshal, to repair boilers

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and pressure vessels.

- 2) Repairs shall be initiated only after they have been authorized by the Authorized Inspector who has reviewed and accepted the weld procedures, welders and welding operators' qualifications and repair methods. The Authorized Inspector may give prior approval for repairs of a routine nature. In every case the Authorized Inspector shall be advised of each repair under prior agreement.
- 3) All non-ISI boilers and pressure vessels covered by the Act that are altered shall be altered by one of the following organizations:
 - A) An owner and those organizations under contract to the owner, provided that:
 - i) the alterations are made in accordance with a Quality Assurance Program that meets the requirements of 10 CFR 50 Appendix B ~~(2007)~~ and has been approved by the NRC;
 - ii) all portions of the owner's 10 CFR 50 Appendix B Quality Assurance Program, referenced in subsection (a)(3)(A)(i), that are applicable to an alteration activity are applied to the alteration; and
 - iii) the owner notifies the Agency of its intention to apply 10 CFR 50 Appendix B Quality Assurance Program, referenced in subsection (a)(3)(A)(i), to the alteration of boilers and pressure vessels. This notification only needs to be given once for all alterations of boilers and pressure vessels performed under the owner's 10 CFR 50 Appendix B Quality Assurance Program at the nuclear facility.
 - AGENCY NOTE: The application of the owner's 10 CFR 50 Appendix B Quality Assurance Program, referenced in subsections (a)(3)(A)(i), (ii) and (iii), is subject to review by the Authorized Inspector.
 - B) An organization in possession of a valid "R" Certificate of Authorization issued by the National Board, provided the

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alterations are within the scope of that authorization.

- 4) Alterations shall be initiated only after they have been authorized by the Authorized Inspector who has reviewed and accepted the alteration methods and calculations. If considered necessary, the Authorized Inspector shall make an inspection of the object before granting authorization.
- 5) Reports documenting repairs and alterations shall be sent to the Agency in addition to the distribution required by the National Board Inspection Code.
- 6) Documentation of repairs and alterations shall be in accordance with the National Board Inspection Code, except that, in lieu of a form R-1 or R-2, an alternative form containing equivalent information may be used. All alternative forms shall be signed by the Authorized Inspector. All alternative forms shall be approved by the Agency prior to use. The Authorized Inspector shall determine whether the completion of the form R-1, R-2, or an alternative form is required for routine repairs.
- 7) Repairs and alterations shall be accepted by either an Authorized Inspector employed by the Authorized Inspection Agency responsible for the boiler or pressure vessel or by an Authorized Inspector employed by the Authorized Inspection Agency of record for the organization making the repair or alteration. It shall be the responsibility of the organization making the repair or alteration to coordinate the acceptance inspection of the repair or alteration.
- 8) For pressure parts, the rules of Part 3, Section 3 of the National Board Inspection Code shall apply.
- 9) Pressure Testing
 - A) The Authorized Inspector may require a pressure test after completing a repair to a boiler or pressure vessel when in the Authorized Inspector's judgment one should be conducted.
 - B) A pressure test in accordance with the National Board Inspection Code shall be applied to the boiler or pressure vessel on the

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completion of an alteration.

- 10) For repair methods, the rules of Part 3 of the National Board Inspection Code shall apply.
- 11) Alteration methods shall comply with the general requirements of this subsection (a), and with the appropriate ASME Code Section or Part 3 of the National Board Inspection Code, as applicable, including any service restrictions.
- 12) Major replacement of pressure parts, including drums and shells, that are fabricated by welding and for which a Manufacturers Data Report is required by the applicable ASME Code Section shall be fabricated by a manufacturer having an ASME Certificate of Authorization and the appropriate Certification Mark with appropriate designator. The item shall be inspected, stamped with the applicable Certification Mark with appropriate designator and the word "PART", and reported on the appropriate Manufacturers Partial Data Report.
- 13) When a repair or alteration requires removal of that part of a non-ISI boiler or pressure vessel containing the Code stamping, the Authorized Inspector shall, subject to the approval of the Agency, witness the making of a facsimile of the stamping, the obliteration of the old stamping and the transfer of the stamping to the new part. When the stamping is on a nameplate, the Authorized Inspector is to witness the transfer of the nameplate to the new part. The Certification Mark with appropriate designator is not to be restamped.
- 14) For rerating, the rules of this subsection (a) and Part 3 of the National Board Inspection Code shall apply. Additionally, the following shall apply:
 - A) All requirements in Part 3 of the National Board Inspection Code and this subsection (a) shall be met to the satisfaction of the Authorized Inspection Agency at the location of the installation.
 - B) Revised calculations verifying the new service conditions shall be required from the original manufacturer or, when the calculations cannot be obtained from this source, they may be prepared by an

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engineer in accordance with Part 3 of the National Board Inspection Code.

- C) The boiler or pressure vessel shall be pressure tested for the rerated condition as required by subsection (a)(9)(B).

15) Nameplates and Stamping for Repair and Alteration

- A) The rules of Part 3, Section 5 of the National Board Inspection Code shall apply. The exceptions and clarifications of this subsection (a)(15) shall also apply.
- B) For owners that act as the repair organization under the provisions of subsection (a)(1)(A) for repairs or under subsection (a)(3)(A) for alterations who are not in possession of a valid "R" Certificate of Authorization issued by the National Board, the requirements for nameplates and stamping in Part 3, Section 5 of the National Board Inspection Code shall not apply. All other requirements shall be met.

- b) Pressure relief valves associated with non-ISI boilers and pressure vessels shall be repaired in accordance with the National Board Inspection Code or with this subsection (b).

- 1) All pressure relief valves covered by this subsection (b) that are repaired shall be repaired by one of the following organizations:

- A) An owner and those organizations under contract to the owner, provided that:
 - i) the repairs are made in accordance with a Quality Assurance Program that meets the requirements of 10 CFR 50 Appendix B ~~(2007)~~ and has been approved by the NRC;
 - ii) all portions of the owner's 10 CFR 50 Appendix B Quality Assurance Program, referenced in subsection (b)(1)(A)(i), that are applicable to a repair activity are applied to the repair; and

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- iii) the owner notifies the Agency of its intention to apply 10 CFR 50 Appendix B Quality Assurance Program, referenced in subsection (b)(1)(A)(i), to the repair of these pressure relief valves. This notification only needs to be given once for all repairs of pressure relief valves performed under the owner's 10 CFR 50 Appendix B Quality Assurance Program at the nuclear facility.

AGENCY NOTE: The application of the owner's 10 CFR 50 Appendix B Quality Assurance Program, referenced in subsections (b)(1)(A)(i), (ii) and (iii), is subject to review by the Authorized Inspector.

- B) The manufacturer of the valve who is in possession of a valid ASME "V", "NV" or "UV" Certificate of Authorization, provided repairs are within the scope of the organization's Certificate of Authorization and are performed under the organization's Quality Control System or Quality Assurance System, as applicable.
 - C) An organization in possession of a valid "VR" Certificate of Authorization issued by the National Board, provided repairs are within the scope of the organization's Certificate of Authorization and are performed under the organization's Quality Control System.
 - D) An organization in possession of a valid Certificate of Authorization issued by the Division of Boiler and Pressure Vessel Safety, Office of the State Fire Marshal, to repair pressure relief valves provided repairs are within the scope of the organization's Certificate of Authorization and performed under the organization's accepted Quality Control System.
- 2) Repair of a pressure relief valve is considered to be the replacement or machining of any critical part, lapping of seat and disc or any other operation that may affect the flow passage, capacity, function or pressure retaining integrity. Disassembly and reassembly or adjustments that affect the pressure relief valve function are not considered a repair, but a test confirming the valve's set pressure shall be performed. The initial installation, testing and adjustments of a new pressure relief valve on a

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non-ISI boiler or pressure vessel are not considered a repair.

- 3) Nameplates and Stamping
 - A) The rules of Part ~~43~~, Section ~~45~~ of the National Board Inspection Code shall apply. The exceptions and clarifications of this subsection (b)(3) shall also apply.
 - B) Individuals authorized by the Division of Boiler and Pressure Vessel Safety, Office of the State Fire Marshal, who are properly trained and qualified employees of the owner may make adjustments to the set pressure provided the adjusted settings and the date of the adjustment are recorded on a metal tag secured to the seal wire. All external adjustments shall be resealed showing the identification of the organization making the adjustments.
 - C) For owners that act as the valve repair organization under the provisions of subsection (b)(1)(A) who are not in possession of a valid "VR" Certificate of Authorization issued by the National Board, the requirements for stamping and nameplates in Part ~~43~~, Section ~~45~~ of the National Board Inspection Code shall not apply. All other requirements shall be met.
- 4) Performance Testing
 - A) The rules of Part ~~43~~, Section 4 of the National Board Inspection Code shall apply, regardless of whether the "VR" stamp will be or has been applied. The exceptions and clarifications of this subsection (b)(4) shall also apply.
 - B) For owners that act as the valve repair organization under the provisions of subsection (b)(1)(A) who are not in possession of a valid "VR" Certificate of Authorization issued by the National Board, performance testing equipment qualified by the owner under Part ~~43~~, Section 4 of the National Board Inspection Code shall be done by the owner. The Authorized Inspector shall witness the qualification of test equipment and review the documentation of the qualification.

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- 5) Organizations that repair pressure relief valves under subsections (b)(1)(B) through (b)(1)(D) may perform field repairs in accordance with the following requirements.
- A) Qualified technicians in the employ of the repair organization perform the repairs.
 - B) Procedures that address field repairs are contained in the Quality Control System or Quality Assurance System, as applicable, and are maintained.
 - C) All functions affecting the quality of the repaired pressure relief valves are controlled from the location for which the appropriate authorization was issued.
 - D) Periodic audits of work carried out in the field are made by quality control personnel of the repair organization to ensure that the requirements of the Quality Control System or Quality Assurance System, as applicable, are met. This audit may include witnessing the test of the field repaired pressure relief valve.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF EMPLOYMENT SECURITY

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- 1) Heading of the Part: Payment of Unemployment Contributions, Interest and Penalties
- 2) Code Citation: 56 Ill. Adm. Code 2765
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
2765.335	Amendment
2765.336	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 706, 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, 706, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, 2401 and 2600].
- 5) A Complete Description of the Subjects and Issues Involved: Implementing the provisions of Section 706 of the Unemployment Insurance Act, which require non-charging of overpaid unemployment benefits for employers that fail to respond timely or adequately to a request from the Department for information relating to a claim for benefits if the employer has a pattern of untimely or inadequate responses to such requests.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking neither creates nor expands a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Thomas D. Chan, Acting Director

DEPARTMENT OF EMPLOYMENT SECURITY

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Illinois Department of Employment Security
33 South State Street – Room 933
Chicago IL 60603

312/793-2338
fax: 312/793-5645
e-mail: Thomas.D.Chan@illinois.gov

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the First Notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking has minimal direct effect on small businesses, small municipalities and not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: No new reporting or bookkeeping is required for compliance.
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

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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

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- 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
2765.200 Transfer of Trade or Business Subject to Section 1507.1 of the Act
2765.210 Prohibition on Withdrawal of Joint Application for Partial Transfer of Experience
Rating Record
2765.220 Determination of 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
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

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- 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
- [2765.336 Non-Cancellation of Benefit Charges Due to Employer's Pattern of Failing to Respond Timely and Adequately](#)

AUTHORITY: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 706, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1507, 1508, 1509, 1700, 1701, 2401 and 2600 of the Unemployment Insurance Act [820 ILCS 405].

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, 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

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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. 11054, effective January 15, 2019; amended at 43 Ill. Reg. 6480, effective May 14, 2019; amended at 44 Ill. Reg. _____, effective _____.

SUBPART C: BENEFIT CHARGES

Section 2765.335 Procedural Requirements And Right Of Appeal

- a) ~~Whenever, pursuant to Section 701 of the Act,~~~~Pursuant to Section 701 of the Act,~~~~whenever the claims adjudicator~~~~Claims Adjudicator~~ decides that an employer is the "last employer" of an individual (employer subject to benefit charges or payments in lieu of contributions) as provided in this Subpart, or, pursuant to Section 706 of the Act, decides that charges must be assessed against the employer pursuant to Section 2765.336 for benefits for which a claimant was ultimately determined to be ineligible, the claims adjudicator~~he~~ shall promptly notify the employer of this decision. ~~A~~~~With respect to benefit years beginning on or after January 1, 1993, such~~ decision that an employer is the "last employer" of an individual shall apply to the week beginning with the effective date of the claim and each week thereafter until the claims adjudicator finds that the individual is no longer unemployed.

~~EXAMPLE~~Example: An individual files a claim with a benefit year beginning ~~date of~~ January 10, 1993, and Company A is notified that it is the "last employer". The employer fails to file a timely request for reconsideration of this decision. The individual is then paid benefits for the period from January 10, 1993 through January 30, 1993. Company A is the chargeable employer for this period. The individual returns to work for Company A and earns over his weekly benefit amount for the week ending February 6, 1993. He is then laid off of work and files an additional claim beginning February 7, 1993. Company A is notified that it is the "last employer" with respect to this claim. Company A can file a timely request for reconsideration of this decision. However, this request will affect only weeks after February 6, 1993.

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- b) If the employer disagrees with the decision of the claims adjudicator that ~~it~~ is the "last employer," or that charges must be assessed against the employer pursuant to Section 2765.336, the employer must file a written request for reconsideration of this decision within 10 days ~~after~~ of the date of mailing of the decision.
- c) A request for reconsideration of the decision of the claims adjudicator must comply with the requirements of 56 Ill. Adm. Code 2720.130. In the case of a decision that the employer is the last employer of the individual, the request shall and specify the full name and social security number of the individual and the reasons why the employer believes that it is not the chargeable employer under this Subpart. The employer may not allege the misapplication of Section 2765.336 with respect to any claim that was part of the basis for charges assessed against an employer pursuant to that Section, if the claim was the basis of a previous decision that assessed charges against the employer pursuant to Section 2765.336 and that decision has become legally final. An employer's request for reconsideration of a decision issued pursuant to Section 706 may not challenge a legally final determination or decision that the employer failed to file a timely and sufficient protest for purposes of Section 2765.336.

EXAMPLE 1: Employer X receives a decision that charges must be assessed against Employer X for benefits paid to Claimant A even though Claimant A was finally determined to be ineligible for those benefits. Employer X files a timely request for reconsideration of that decision. It will be Employer X's burden to show that Section 2765.336 does not apply to the charges for Claimant A's benefits. However, the request may not challenge a legally final determination or decision that Employer X failed to file a timely and sufficient protest for purposes of Section 2765.336.

EXAMPLE 2: Employer X receives a Notice of Claim indicating that Claimant A has filed a claim for benefits. Employer X does not file a timely protest of the claim. The Department issues a determination, allowing A's claim, and A receives benefits during October 2021. That same month, X sends the Department information, indicating that it had discharged A for misconduct. In November 2021, the Department issues a reconsidered determination, denying A's claim. A does not appeal, and the reconsidered determination becomes legally final. According to Department records, during 2021, there were 4 prior claims with respect to which: X was the last chargeable employer; the Department had

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properly notified X; the Department initially paid benefits due to X's failure to file a timely and sufficient protest pursuant to Section 2720.130; and the Department ultimately issued a reconsidered determination denying benefits, with the reconsidered determination becoming legally final. Employer X receives a decision that charges must be assessed against Employer X for benefits paid to Claimant A even though Claimant A was finally determined to be ineligible for those benefits. The decision notes the four prior claims that caused X to remain chargeable for the benefits that were paid to A. To be relieved of the charges for A's benefits, X must file a timely request for reconsideration of the decision. It will be Employer X's burden to show that Section 2765.336 does not apply to the charges for Claimant A's benefits. However, the request may not challenge a legally final determination or decision that Employer X failed to file a timely and sufficient protest for purposes of Section 2765.336.

EXAMPLE 3: Employer X receives a Notice of Claim, indicating that Claimant A has filed a claim for benefits. Employer X does not file a timely protest of the claim. The Department issues a determination, allowing A's claim, and A receives benefits during September 2021. That same month, X sends the Department information indicating that it had discharged A for misconduct. In October 2021, the Department issues a reconsidered determination, denying A's claim. A does not appeal, and the reconsidered determination becomes legally final. According to Department records, during 2021, there were 4 prior claims with respect to which: X was the last chargeable employer; the Department had properly notified X; the Department initially paid benefits due to X's failure to file a timely and sufficient protest pursuant to Section 2720.130; and the Department ultimately issued a reconsidered determination denying benefits, with the reconsidered determination becoming legally final. Employer X receives a decision that charges must be assessed against Employer X for benefits paid to Claimant A even though Claimant A was finally determined to be ineligible for those benefits. The decision notes the four prior claims that caused X to remain chargeable for the benefits that were paid to A. X does not file a request for reconsideration, and the decision becomes legally final. In November 2021, Employer X receives a Notice of Claim indicating that Claimant B has filed a claim for benefits. Employer X does not file a timely protest of the claim. The Department issues a determination, allowing B's claim, and B receives benefits during November 2021. That same month, X sends the Department information, indicating that it had discharged B for misconduct. In December 2021, the Department issues a reconsidered determination, denying B's claim. B does not appeal, and the reconsidered determination becomes legally final. Employer X receives a decision

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that charges must be assessed against Employer X for benefits paid to Claimant B even though Claimant B was finally determined to be ineligible for those benefits. The decision notes the five prior claims that caused X to remain chargeable for the benefits that were paid to B. X may not allege the misapplication of Section 2765.336 with respect to any of the five prior claims because each was part of the basis for charges assessed against X pursuant to Section 2765.336 for benefits for which a claimant was ultimately determined to be ineligible, and the decision assessing the charges became legally final.

- d) After reviewing the allegations of the employer and any other relevant facts in the record, the claims adjudicator shall issue a reconsidered decision. If the employer disagrees with the reconsidered decision of the claims adjudicator ~~that he is the chargeable employer~~, the employer must file a written appeal of ~~the~~this reconsidered decision within 30 days ~~after~~of the date of mailing of the reconsidered decision or ~~the~~that reconsidered decision will become final.
- e) An Application made pursuant to Section ~~1508~~1058 of the Act and 56 Ill. Adm. Code 2725.100 regarding revision of the "Statement of Benefit Charges, ~~that~~" ~~which~~ includes benefit charges ~~which~~ the employer believes are incorrect because it is not the chargeable employer shall be sufficient only if ~~the~~such Application contains a reference to and a copy of the decision ~~that~~which reverses the claims adjudicator and holds that the employer is not the chargeable employer and that the employer is not subject to charges for the claim pursuant to Section 2765.336. These same requirements must be met by an employer ~~that~~which is questioning payments in lieu of contributions on its "Statement of Amount Due for Benefits Paid."
- f) Unless the employer has filed a timely request for reconsideration ~~of~~to the decision that the claims adjudicator has found it to be the chargeable employer, or of the decision that charges must be assessed against the employer pursuant to Section 2765.336, as the case may be, the~~pursuant to this Subpart, such~~ employer shall not be entitled to a revision of its "Statement of Benefit Charges" under 56 Ill. Adm. Code 2725.100, nor shall it be entitled to a revision of the amounts shown on its "Statement of Amount Due for Benefits Paid" for payments in lieu of contributions.

~~EXAMPLE~~Example: Employer A is notified that it is the chargeable employer with respect to a week paid to an individual in a benefit year beginning on or after January 1, 1993. The employer does not request reconsideration of this decision.

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Several weeks later, this employer is served with its "Statement of Benefit Charges" for the weeks paid to this individual. At this time, the employer requests a revision of the "Statement" on the grounds that this individual did not perform services for it for 30 days prior to the beginning of the weeks for which it is being charged. ~~The~~This employer shall not be entitled to a revision of these charges because it failed to file a timely request for reconsideration of the initial decision that it was the chargeable employer.

- g) Appeals of decisions under this Section shall be filed with the local office where the original decision was made.
- h) The conduct of the hearing shall be the same as that provided under Section 2200 of the Act and 56 Ill. Adm. Code 2725.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 2765.336 Non-Cancellation of Benefit Charges Due to Employer's Pattern of Failing to Respond Timely and Adequately

- a) For purposes of Section 706 of the Act, if benefits are paid pursuant to a finding or determination, or a reconsidered finding or determination, that is finally reversed or modified in subsequent proceedings, the benefit charges, for purposes set forth in Section 1502.1 of the Act, shall be treated in the same manner as if the reversal or modification had not occurred if:
 - 1) The employer was the last employer with respect to the claim at issue;
 - 2) The employer was properly notified with respect to the claim at issue;
 - 3) The finding or determination, or reconsidered finding or determination, was attributable to the employer's failure to file a sufficient protest within the time required by 56 Ill. Adm. Code 2720.130(a)(1) or (d)(3), whichever is applicable; and
 - 4) During the same calendar year, there were at least 4 prior benefit claims with respect to which:
 - A) subsections (a)(1), (2) and (3) applied with respect to the employer; and

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- B) benefits were paid, and the finding, determination or reconsidered finding or determination under which benefits were paid was finally reversed or modified in subsequent proceedings.

EXAMPLE: The employer fails to file a timely and sufficient protest when notified initially that the claimant has filed a claim for benefits and does not preserve party status. The claimant receives benefits. When the employer receives its quarterly Statement of Benefit Charges, it raises a question regarding the claimant's eligibility for benefits. Upon investigation, the claims adjudicator determines the claimant to be ineligible for benefits and establishes an overpayment for the entire amount of the benefits paid to the claimant. The overpayment becomes legally final. The employer's charges for this claimant's benefits will not be cancelled if, within the same calendar year, there were at least four other cases to which subsections (a)(4)(A) and (B) apply.

- b) For purposes of subsection (a)(3), with respect to a claim in which benefits are initially paid pursuant to a finding or determination, or a reconsidered finding or determination, the timing of the protest shall be determined without regard to 56 Ill. Adm. Code 2720.130(e) if the finding or determination, or the reconsidered finding or determination, was attributable to the employer's failure to initially submit a sufficient protest.
- c) Only claims filed on or after April 1, 2020 shall be considered for purposes of subsection (a).
- d) The applicability of this Section shall be based on the date of the reconsidered finding or determination, or decision of a Referee, the Board of Review or a court that finally reverses the finding or determination, or the reconsidered finding or determination, pursuant to which benefits were paid with respect to the claim.

EXAMPLE: The employer fails to file a timely and sufficient protest when notified initially that the claimant has filed a claim for benefits and does not preserve party status. A separation issue is detected on the claim application. The claims adjudicator mails out an "Allow" determination. The claimant collects benefits for several weeks. The employer then submits a request for reconsideration and appeal. On December 3, 2020, the claims adjudicator mails out a "Deny" reconsidered determination. The claimant does not submit a request

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for reconsideration and appeal. The reconsidered determination becomes final on January 4, 2021. The application of this Section will be based on the date of the reconsidered determination, December 3, 2020, and not the date when the reconsidered determination became final on January 4, 2021.

- e) This Section will apply regardless of whether the employer has contracted with one or more attorneys or other representatives for representation in connection with benefit claims.

(Source: Added at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Corporate Fiduciary Applications and Notices
- 2) Code Citation: 38 Ill. Adm. Code 396
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
396.10	Amendment
396.210	Amendment
396.310	Repealed
396.320	Repealed
396.330	Repealed
- 4) Statutory Authority: Implementing and authorized by the Corporate Fiduciary Act [205 ILCS 620/]
- 5) A Complete Description of the Subjects and Issues Involved: PA 100-48 repealed the requirement that banks and savings banks file notice under the Corporate Fiduciary Act before establishing a branch office. This proposed rulemaking aligns the Corporate Fiduciary Applications and Notices with the amended statute by removing the requirement that a corporate fiduciary that is a bank, savings and loan association, or savings bank give notice of intent to establish a branch office to the Secretary of Financial and Professional Regulation 30 days prior to the purchasing or leasing of land, building, or equipment. The proposed rulemaking also defines "Commissioner" as the Secretary of the Illinois Department of Financial and Professional Regulation.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield IL 62786

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: 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:
- A) Types of businesses subject to the proposed rule:
54 professional, scientific and technical services
 - B) Categories that the agency reasonably believes the rulemaking will impact, including:
 - ii. regulatory requirements
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: OFFICE OF BANKS AND REAL ESTATEPART 396
CORPORATE FIDUCIARY APPLICATIONS AND NOTICES

SUBPART A: GENERAL PROVISIONS

Section

396.5	Purpose
396.10	Definitions
396.20	Purpose (Renumbered)
396.30	Factors to be Considered by the Commissioner (Renumbered)

SUBPART B: CORPORATE FIDUCIARY SUBSIDIARIES

396.110	Purpose
396.120	Factors to be Considered by the Commissioner

SUBPART C: CORPORATE FIDUCIARY BRANCH OFFICES – APPROVAL

Section

396.210	Purpose
396.220	Terms and Conditions for Approval
396.230	Application Procedures

SUBPART D: CORPORATE FIDUCIARY BRANCH OFFICES – NOTICE

Section

396.310	Purpose <u>(Repealed)</u>
396.320	Notice Requirements <u>(Repealed)</u>
396.330	Notice Procedures <u>(Repealed)</u>

AUTHORITY: Implementing Sections 1-7(a) and (b) and authorized by Sections 5-1(a) and 1-7(a) of the Corporate Fiduciary Act [205 ILCS 620].

SOURCE: Adopted at 14 Ill. Reg. 15771, effective September 18, 1990; amended at 20 Ill. Reg. 10825, effective August 1, 1996; amended at 44 Ill. Reg. _____, effective _____.

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SUBPART A: GENERAL PROVISIONS

Section 396.10 Definitions

"Commissioner" means the Secretary of the Department of Financial and Professional Regulation~~Commissioner of the Office of Banks and Real Estate.~~

"Corporate fiduciary" shall have the meaning ascribed to it in Section 1-5.05 of the Corporate Fiduciary Act [205 ILCS 620].

"Corporate fiduciary subsidiary" means a subsidiary of a corporation organized for the purposes of accepting and executing trusts which has received a Certificate of Authority from the Commissioner to accept and execute trusts, but shall not include a state bank, a state savings and loan association, a state savings bank or any subsidiary thereof.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART C: CORPORATE FIDUCIARY BRANCH OFFICES – APPROVAL

Section 396.210 Purpose

Section 1-7(a) of the Corporate Fiduciary Act requires any corporate fiduciary that is a trust company to apply for and obtain approval from the Commissioner ~~thirty days prior to the purchasing or leasing of land, building, or equipment~~ for the establishment of a branch office. This Subpart sets forth the terms and conditions a trust company must satisfy in order for the Commissioner to approve its application for the establishment of a branch office.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART D: CORPORATE FIDUCIARY BRANCH OFFICES – NOTICE

Section 396.310 Purpose (Repealed)

~~Section 1-7(a) of the Corporate Fiduciary Act requires any corporate fiduciary that is a bank savings and loan association, or savings bank, to give notice of its intent to establish a branch to the Commissioner thirty days prior to the purchasing or leasing of land, building, or equipment for the establishment of a branch office. This Subpart sets forth the items to be included in the notice of intent.~~

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(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 396.320 Notice Requirements (Repealed)

~~The notice of intent to establish a branch office, from a corporate fiduciary that is a bank, savings and loan association, or savings bank, to the Commissioner shall include the following information:~~

- ~~a) The names and qualifications of the proposed branch management.~~
- ~~b) A copy of the procedures for operations, controls and audits at the branch office, including but not limited to facilities for safekeeping and recordkeeping.~~
- ~~e) A list of the activities proposed to be performed at the branch office.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 396.330 Notice Procedures (Repealed)

- ~~a) A corporate fiduciary that is a bank, savings and loan association, or savings bank that intends to establish a branch office shall file a notice of intent with the Commissioner on forms prescribed by the Commissioner.~~
- ~~b) The notice of intent shall be deemed filed when the Commissioner has received the applicable filing fee and a completed notice form, including all of the supporting documentation specified in the notice form, that shall include, but not be limited to: a certified copy of the resolution of the establishing corporate fiduciary's board of directors authorizing the establishment of the bank; if the establishing corporate fiduciary intends to lease the property at which the branch will be located or to lease equipment for the branch, a copy of the proposed lease; if a building permit is required for the branch, a copy of the application to be filed with the appropriate authority.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: The Illinois Speech-Language Pathology and Audiology Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1465
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1465.20	Amendment
1465.35	Amendment
1465.36	Amendment
1465.40	Amendment
1465.41	Amendment
1465.50	Amendment
1465.60	Amendment
1465.70	Amendment
1465.75	Amendment
1465.80	Amendment
1465.85	Amendment
1465.95	Amendment
1465.100	New Section
- 4) Statutory Authority: Implementing and authorized by the sunset reauthorization of the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 410].
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking implements the significant changes made to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 410] by its sunset reauthorization. These changes include the expansion, as well as definition, of the scope of practice for audiologists and speech-language pathologists. The proposed changes also clarify the speech-language pathologist licensure requirements for foreign graduates and set parameters for the remote practice of audiology and speech-language pathology. Additionally, the proposed changes establish a Continuing Education requirement in ethics for speech-language pathologists and audiologists.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield IL 62786

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: 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:
- A) Types of businesses subject to the proposed rule:
54 – professional, scientific and technical services

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B) Categories that the agency reasonably believes the rulemaking will impact, including:

ii – regulatory requirements

15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1465

THE ILLINOIS SPEECH-LANGUAGE PATHOLOGY
AND AUDIOLOGY PRACTICE ACT

Section

1465.10	Application for Licensure Under Section 7 of the Act (Repealed)
1465.20	Approved Programs
1465.30	Professional Experience
1465.35	Supervision
1465.36	Evaluation and Management Related to Speech-Language Pathology and Audiology
1465.40	Application for Licensure
1465.41	Temporary License
1465.45	Jurisdiction
1465.50	Examination
1465.60	Endorsement
1465.70	Renewal
1465.75	Fees
1465.80	Restoration
1465.85	Continuing Education
1465.90	Granting Variances
1465.95	Professional Conduct Standards
1465.100	Basic Health Screenings

AUTHORITY: Implementing the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105].

SOURCE: Emergency rules adopted at 13 Ill. Reg. 1616, effective January 20, 1989, for a maximum of 150 days; emergency expired June 19, 1989; adopted at 13 Ill. Reg. 13882, effective August 22, 1989; amended at 18 Ill. Reg. 12794, effective August 4, 1994; amended at 19 Ill. Reg. 11477, effective July 28, 1995; emergency amendment at 21 Ill. Reg. 11785, effective August 7, 1997, for a maximum of 150 days; emergency expired January 3, 1998; amended at 22 Ill. Reg. 3879, effective February 5, 1998; amended at 22 Ill. Reg. 21978, effective December 1, 1998; amended at 27 Ill. Reg. 15530, effective September 19, 2003;

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amended at 28 Ill. Reg. 14437, effective October 20, 2004; amended at 35 Ill. Reg. 2002, effective January 20, 2011; amended at 44 Ill. Reg. _____, effective _____.

Section 1465.20 Approved Programs

- a) The Department of Financial and Professional Regulation-Division of Professional Regulation (Division) shall approve a speech-language pathology or audiology program if it meets the following minimum criteria:
- 1) The institution is legally recognized and authorized by the jurisdiction in which it is located to confer the appropriate degree.
 - 2) The institution has a faculty that consists of a sufficient number of full-time instructors to ensure educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas of teaching from professional colleges or institutions.
 - 3) The program director must be trained and hold a master's or doctoral degree in speech-language pathology, in audiology or in speech and hearing science.
 - 4) The institution has an integrated curriculum plan that includes at least the following subject areas in professional education (60 semester hours required):
 - A) Basic Communication Processes
 - i) Anatomic and physiological bases
 - ii) Physical bases and processes of the production and perception of speech, language and hearing
 - iii) Linguistic and psycholinguistic variables related to normal development and use of speech, language and hearing
 - B) Speech-Language Pathology/Audiology
 - i) Speech and language disorders, which must include, at a

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minimum, didactic training in the following subject areas:

- articulation and fluency;
- voice and resonance;
- receptive and expressive language in speaking;
- listening, reading and writing;
- hearing;
- swallowing including oral functions;
- cognitive and social aspects of communication; and augmentative and alternative communication modalities.

- ii) Audiology
- iii) Auditory and vestibular pathology
- iv) Auditory and vestibular habilitation/rehabilitation

5) The institution has a clinical practicum that provides speech-language pathology students with 375 hours of clinical experience supervised in the subject areas in subsection(a)(4)(B)(i) that is by a licensed speech-language pathologist or a minimum of 1500 hours clinical practicum supervised by a licensedan audiologist ~~or a person who is ASHA certified or certified in audiology by the American Board of Audiology~~. The experience shall take place in at least 2 clinical settings (i.e., academic program, school setting, medical facility, community clinics).

- b) The Division shall approve a speech-language pathology assistant program if it meets the following minimum criteria:
 - 1) The institution is legally recognized and authorized by the jurisdiction in which it is located to confer the appropriate degree.

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- 2) The institution has a faculty that consists of a sufficient number of full-time instructors to ensure educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas of teaching from professional colleges or institutions.
- 3) The program director must be trained and hold a master's or doctoral degree in speech-language pathology, in audiology or in speech and hearing science.
- 4) The institution has an integrated curriculum plan that includes at least the following:
 - A) 24 semester credit hours or its equivalent in general education;
 - B) 36 semester credit hours or its equivalent in the following technical content areas:
 - i) an overview of normal processes of communication as relates to hearing, speech and language;
 - ii) an overview of communication disorders as relates to hearing, speech and language;
 - iii) instruction in speech-language pathology assistant-level service delivery practices, including basic audiometric screening;
 - iv) instruction in workplace behaviors to minimally include ethics, standards of employee conduct and speech-language pathology assistant duty restrictions;
 - v) cultural and linguistic factors in communication;
 - vi) observation; and
 - C) 100 hours of supervised field work experience supervised by a licensed speech-language pathologist at least 50% of the time when the student is engaged in contact with the patient or client.

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- c) The Division has determined that all speech-language pathology and audiology master's and doctoral degree programs accredited or approved by the Council on Academic Accreditation in Audiology and Speech-Language Pathology as of January 1, 2008 meet the minimum criteria set forth in this Section and are, therefore, approved.
- d) The Division has determined that all audiology doctoral degree programs accredited or approved by the Accreditation Commission for Audiology Education meet the minimum criteria set forth in this Section and are, therefore, approved.
- e) The Division has determined that foreign applicants can meet the speech-language pathology master's program requirement if an applicant provides a verifiable letter from the American Speech-Language-Hearing Association which states the applicant has met the academic and clinical experience requirements for the Certificate of Clinical Competence.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1465.35 Supervision

- a) Pursuant to Section 3.5(a) of the Act, supervision of students in speech-language pathology and audiology programs means that the supervisor is on-site (but not necessarily in the same room as the student) whenever the student is performing practices normally done by a licensed speech-language pathologist or audiologist. Supervision of students requires that direct supervision must be done no less than 25% of the time for treatment and 25% of the time for diagnostics. The supervisor is directly responsible to the client for all actions of that student. For purposes of this Part, direct supervision means on site, in view of the supervisor. This Part does not apply to students in speech-language pathology assistant programs.
- b) If a person has completed the academic and practicum work for a master's or doctoral degree in speech-language pathology and the individual is in the process of completing the equivalent of 9 months of supervised professional experience for his/her initial license, or the individual has finished that experience and is waiting for his/her application for licensure to be processed, supervision shall meet the requirements set forth in Section 1465.30.

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- c) Pursuant to Section 8.8 of the Act, a speech-language pathology assistant shall:
- 1) Practice only under the supervision of a licensed speech-language pathologist who has at least 2 years' experience in addition to the supervised professional experience required under Section 8(f) of the Act. A speech-language pathologist who supervises a speech-language pathology assistant must have completed at least ~~610~~ clock hours of training in ~~the supervision~~ related to speech-language pathology and must complete at least 2 clock hours of continuing education in supervision related to speech-language pathology in each new licensing cycle after completion of the initial training required under Section 8(f) of the Act ~~assistants~~.
 - A) The supervision training requirement shall be satisfied by completion of 10 hours of continuing education as defined in Section 1465.85(b).
 - B) Documentation of prior supervisory experience may be submitted to the Board of Speech-Language Pathology and Audiology (Board) with a request for its acceptance in lieu of the supervision training requirement. The Board retains the discretion to approve or deny the request. - 2) Be under the direct supervision of a licensed speech-language pathologist at least 30% of the speech-language pathology assistant's actual patient or client contact time per patient or client on a weekly basis during the first 90 days of initial employment as a speech-language pathology assistant. Thereafter, a speech-language pathology assistant must be under the direct supervision of a licensed speech-language pathologist at least 20% of the speech-language pathology assistant's actual patient or client contact time per patient or client on a weekly basis. Supervision of a speech-language pathology assistant beyond the minimum requirements of this subsection (c)(2) may be imposed at the discretion of the supervising speech-language pathologist. A supervising speech-language pathologist must be available to communicate with a speech-language pathology assistant whenever the assistant is in contact with a patient or client.
 - A) A speech-language pathologist who supervises a speech-language

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pathology assistant must document direct supervision activities. At a minimum, supervision documentation must provide:

- i) information regarding the quality of the speech-language pathology assistant's performance of assigned duties; and
 - ii) verification that clinical activity is limited to duties specified in Section 8.7 of the Act.
- B) A full-time speech-language pathologist may supervise no more than 2 speech-language pathology assistants. A speech-language pathologist who does not work full-time may supervise no more than one speech-language pathology assistant.
- 3) For purposes of this subsection (c), "direct supervision" means on-site, in-view observation and guidance by a speech-language pathologist while an assigned activity is performed by the speech-language pathology assistant.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1465.36 Evaluation and Management Related to Speech-Language Pathology and Audiology

For purposes of this Part, evaluation and management related to the practice of speech-language pathology and audiology shall be defined as follows:

- a) **Speech-Language Pathology**
 - 1) Evaluation under speech-language pathology means the application of nonmedical methods and procedures for the identification, measurement, testing and appraisal of communication development, disorders or disabilities of speech, language, voice, swallowing and other speech, language and voice related disorders.
 - 2) Management under speech-language pathology means habilitation, rehabilitation, counseling, consulting, directing or conducting programs that are designed to modify disorders related to communication development, and disorders or disabilities of speech, language, voice or swallowing. This may also include training in the use of augmentative

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communication systems, communication variation, cognitive rehabilitation, nonspoken language production, ~~and~~ comprehension, performance of hearing screening test consistent with speech-language pathology training, and basic health screenings in accordance with Section 8.3 of the Act.

- b) Audiology
- 1) Evaluation under audiology means the application of nonmedical methods and procedures for the identification, measurement, testing and appraisal of hearing or vestibular function.
 - 2) Management under audiology means the application of nonsurgical methods and procedures for the screening, identification, measurement, monitoring, testing, appraisal, prediction, interpretation, habilitation, rehabilitation, or instruction related to audiologic or vestibular disorders, including hearing, tinnitus and disorders of hearing and balance habilitation, rehabilitation, counseling, consulting, directing or conducting of programs that are designed to modify disorders related to hearing loss or vestibular malfunction. This includes training in the use of amplification, including dispensing of hearing aids. This also includes intraoperative neurophysiological monitoring of the seventh and eighth cranial nerves, as well as basic speech and language screening tests consistent with audiology training and basic health screenings in accordance with Section 8.3 of the Act~~removal of cerumen for the purpose of performing evaluation or management procedures.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1465.40 Application for Licensure

- a) Each applicant for a speech-language pathology or audiology license shall file an application with the Department of Financial and Professional Regulation-Division of Professional Regulation (Division), on forms provided by the Division. The application shall include:
- 1) Certification, on forms provided by the Division, of a master's or doctoral degree from a program approved by the Division in accordance with Section 1465.20(a). An applicant for licensure as a speech-language

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pathologist who received education and training at a speech-language pathology program located outside of the United States must meet the requirements of Section 8 of the Act, including, but not limited to, substantially complying with the minimum requirements of an approved program as set forth in Section 1465.20(a)(B)(i);

- 2) Passage of the PRAXIS examination or a national examination recognized by the Department set forth in Section 1465.50 or certification from the American Speech-Language-Hearing Association or ~~from the American Board of Audiology~~ pursuant to Section 8(e) of the Act. Exam scores shall be submitted directly to the Division from the testing service;
 - 3) Certification, on forms provided by the Division, of completion of the equivalent of 9 months of full-time supervised professional experience as set forth in Section 1465.30 ~~of this Part~~;
 - 4) The required fee as set forth in Section 1465.75 ~~of this Part~~.
- b) The Division, upon recommendation of the Board, will accept a Certificate of Clinical Competence in Speech-Language Pathology or Audiology awarded by the American Speech-Language-Hearing Association's Clinical Certification Board or certification in audiology from the American Board of Audiology, in lieu of the documents required in subsections (a)(2) and (3).
- c) Each applicant for a speech-language pathology assistant license shall file an application with the Division on forms provided by the Division. The application shall include:
- 1) Certification, on forms provided by the Division, of completion of either an associate's degree from a speech-language pathology assistant program approved by the Division or a bachelor's degree with proof that the applicant has completed course work from an accredited -college or university that meets the minimum requirements in accordance with Section 1465.20(b);
 - 2) The required fee as set forth in Section 1465.75 ~~of this Part~~.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

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Section 1465.41 Temporary License

On or after July 1, 2005, an applicant pursuing licensure as a speech language pathologist shall obtain a temporary license prior to beginning the supervised professional experience as specified in Section 1465.30. The application shall include:

- a) Certification, on forms provided by the Division, of a master's or doctoral degree from a program approved by the Division in accordance with Section 1465.20(a);
- b) Passage of the PRAXIS or a national examination recognized by the Department as set forth in Section 1465.50 or certification from the American Speech-Language-Hearing Association pursuant to Section 8(e) of the Act. Exam scores shall be submitted directly to the Division from the testing service;
- c) Certification on forms provided by the Division demonstrating that a licensed speech-language pathologist has agreed to supervise the professional experience of the applicant; and
- d) The required fee set forth in Section 1465.75 ~~of this Part~~.
- e) The temporary license may be renewed one time only for a 12-month period in the following situations:
 - 1) Serving full-time in the Armed Forces;
 - 2) An incapacitating illness documented by a currently licensed physician; or
 - 3) Any other similar extenuating circumstances.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1465.50 Examination

- a) The examination for licensure as a licensed speech-language pathologist and/or licensed audiologist is the PRAXIS examination or a national examination recognized by the Department that tests the theory and practice of the profession.
- b) Candidates for the examination shall make application and pay the examination fee directly to the designated testing service.

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- c) Application to the testing services for purposes of the examination shall not constitute application to the Division for licensure.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1465.60 Endorsement

- a) An applicant for a license as a speech-language pathologist or audiologist who is licensed under the laws of another state or territory of the United States shall file an application with the Division, on forms provided by the Division, that includes:
- 1) Certification, on forms provided by the Division, of a master's or doctoral degree from a program approved by the Division in accordance with Section 1465.20;
 - 2) Certification, on forms provided by the Division, of completion of the equivalent of 9 months of full-time supervised professional experience as set forth in Section 1465.30 ~~of this Part~~;
 - 3) Proof of successful completion of the examination set forth in Section 1465.50 ~~of this Part~~;
 - 4) The Division, upon recommendation of the Board, will accept a Certificate of Clinical Competence in Speech-Language Pathology or Audiology awarded by the American Speech-Language-Hearing Association's Clinical Certification Board ~~or certification in audiology from the American Board of Audiology~~, in lieu of the documents required in subsections (a)(2) and (3);
 - 5) Certification, on forms provided by the Division, from the state or territory of the United States in which the applicant was originally licensed and any state in which the applicant is currently licensed, stating:
 - A) The time during which the applicant was licensed; and
 - B) Whether the file of the applicant contains any record of any disciplinary actions taken or pending;

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- 6) The required fee set forth in Section 1465.75 ~~of this Part.~~
- b) The Division may require additional information to determine if the requirements in the state or territory of original licensure were substantially equivalent to the requirements then in effect in Illinois at the time of original licensure or to determine whether the requirements of another state or territory together with education and professional experience qualifications of the applicant are substantially equivalent to the requirements in Illinois at the time of application. The Division, upon recommendation of the Board, shall determine substantial equivalency based on, but not limited to, certification in speech-language pathology ~~or audiology~~ from the American Speech-Language-Hearing Association ~~or certification in audiology from the American Board of Audiology~~; education, training, and experience, including, but not limited to, whether he/she has achieved special honors or awards, has had articles published in professional journals, has written textbooks relating to speech-language-hearing; and any other attribute the Director of the Department of Financial and Professional Regulation-Division of Professional Regulation with the authority delegated by the Secretary (Director) accepts as evidence that the applicant has outstanding and proven ability in speech-language-hearing. The Division shall either issue a license by endorsement to the applicant or notify him/her of the reasons for the denial of the application.
- c) A person licensed as a speech-language pathologist or audiologist under the laws of another state, who has made application to the Division for a license to practice, may practice speech-language pathology or audiology without a license for 90 days from the date of application or until disposition of the license application by the Division, whichever is sooner. The person must hold a Certificate of Clinical Competence from the American Speech-Language-Hearing Association in speech-language pathology or audiology ~~or, in the case of an audiologist, a certificate from the American Board of Audiology~~. In order to qualify under this subsection, there shall be no discipline or pending discipline against the applicant from the state or territory of the United States in which the applicant was originally licensed or any state in which the applicant is currently licensed.
- d) Application
- 1) An applicant for a license as a speech-language pathology assistant who is licensed under the laws of another state or territory of the United States

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shall file an application with the Division, on forms provided by the Division, that includes:

- A) Certification, on forms provided by the Division, of completion of either an associate's degree from a speech-language pathology assistant program approved by the Division or a bachelor's degree with proof that the applicant has completed course work from an accredited college or university that meets the minimum requirements in accordance with Section 1465.20(b);
 - B) The required fee set forth in Section 1465.75 ~~of this Part~~; and
 - C) Certification, on forms provided by the Division, from the state or territory of the United States in which the applicant was originally licensed and any state in which the applicant is currently licensed, stating:
 - i) The time during which the applicant was licensed; and
 - ii) Whether the file of the applicant contains any record of any disciplinary actions taken or pending.
- 2) The Division may require additional information to determine if the requirements in the state or territory of original licensure were substantially equivalent to the requirements then in effect in Illinois at the time of original licensure or to determine whether the requirements of another state or territory, together with education and professional experience qualifications of the applicant, are substantially equivalent to the requirements in Illinois at the time of application. The Division shall either issue a license by endorsement to the applicant or notify him/her of the reasons for the denial of the application.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1465.70 Renewal

- a) Every license issued under the Act shall expire on October 31 of odd numbered years. The holder of a license may renew the license during the month preceding the expiration date by paying the required fee. In order to renew a license, a

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speech-language pathology or audiology licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85. Beginning with the October 31, 2007 renewal, in order to renew a speech-language pathology assistant license, a licensee will be required to complete 10 hours of continuing education in accordance with Section 1465.85.

- b) It is the responsibility of each licensee to notify the Division of any change of address or email address. ~~Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1465.75 Fees

The following fees shall be paid to the Division and are not refundable:

- a) Application Fees
- 1) The fee for application for initial speech-language pathologist or audiologist license by examination is \$90.
 - 2) The fee for application as a speech-language pathology assistant is \$45.
 - 3) The fee for application for a person licensed as a speech-language pathologist or audiologist under the laws of another state or territory of the United States or of a foreign country or province is \$100.
 - 4) The fee for a temporary license as a speech-language pathologist is \$75.
- b) Renewal Fees
- 1) The fee for the renewal of a speech-language pathologist or audiologist license shall be calculated at the rate of \$50 per year. In addition to the renewal fee, an audiologist shall, at renewal, pay a Hearing Instrument Consumer Protection Fee of \$45 as provided in Section 14(b-5) of the Act.
 - 2) The fee for the renewal of a speech-language pathology assistant license shall be calculated at the rate of \$25 per year.

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- 3) The fee for the renewal of a temporary license as a speech-language pathologist shall be \$50.
- c) General Fees
- 1) The fee for the restoration of a license other than from inactive status is \$50 plus payment of all lapsed renewal fees.
 - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that has been lost or destroyed or for the issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.
 - 3) The fee for a certification of a licensee's record for any purpose is \$20.
 - 4) ~~The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.~~
 - 5) ~~The fee for a roster of persons licensed as speech-language pathologists or audiologists in this State shall be the actual cost of producing the roster.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1465.80 Restoration

- a) A person seeking restoration of a license that has expired for 5 years or less shall have the license restored upon payment of the fees pursuant to Section 1465.75 of this Part. In order to restore a speech-language pathology or audiology license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85. In order to restore a speech-language pathology assistant license, a licensee will be required to complete 10 hours of continuing education in accordance with Section 1465.85.
- b) A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the fee pursuant to Section 1465.75 ~~of this Part~~. In order to restore a speech-language pathology or audiology license, a licensee will be required to complete 20 hours

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of continuing education in accordance with Section 1465.85. In order to restore a speech-language pathology assistant license, a licensee will be required to complete 10 hours of continuing education in accordance with Section 1465.85.

- c) A person seeking restoration of a speech-language pathology or audiology license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the fee required by Section 1465.75-~~of this Part~~ and be scheduled for an interview before the Board. In order to restore a license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85. The person shall also submit either:
- 1) Sworn evidence of active practice in another United States jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of said active practice; or
 - 2) An affidavit attesting to military service as provided in Section 11(f) of the Act; or
 - 3) Proof of successful completion of the PRAXIS examination or a national examination recognized by the Department in accordance with Section 1465.50-~~of this Part~~ within one year prior to application for restoration of a speech-language pathology or audiology license.
- d) A person seeking restoration of a speech-language pathology assistant license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the fee required by Section 1465.75-~~of this Part~~ and be scheduled for an interview before the Board. In order to restore a license, a licensee will be required to complete 10 hours of continuing education in accordance with Section 1465.85. The person shall also submit either:
- 1) Sworn evidence of active employment as a speech-language pathology assistant in another United States jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to be employed during the term of active employment as a speech-language pathology assistant; or

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- 2) An affidavit attesting to military service as provided in Section 11(f) of the Act.
- e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of lack of information, discrepancies or conflicts in information given or a need for clarification, the person seeking restoration of a license shall be required to:
 - 1) Provide information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Division, an applicant shall have the license restored.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1465.85 Continuing Education

- a) Continuing Education (CE) Hours Requirements
 - 1) In order to renew a speech-language pathology or audiology license, a licensee will be required to complete 20 hours of CEcontinuing education in accordance with this Section. In order to renew a speech-language pathology assistant license, a licensee will be required to complete 10 hours of CEcontinuing education in accordance with this Section.
 - 2) A prerenewal period is the 24 months preceding October 31 of each odd-numbered year.
 - 3) Except as otherwise provided, CE requirements shall be the same for licensed speech-language pathologists and licensed audiologists. Individuals who hold a license as a speech pathologist and as an audiologist will be required to complete 20 hours of CEcontinuing education for each license held.
 - 4) An audiologist may not obtain more than 10 clock hours of CE during the 2-year licensing cycle through programs sponsored by hearing instrument

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or auditory prosthetic manufacturers.

- 5) An audiologist must provide proof that at least 2 clock hours of training in ethics or legal requirements pertaining to the practice of audiology was completed during the 2-year licensing cycle for which he or she is currently licensed.
 - 6) A speech-language pathologist must provide proof that at least one clock hour of ethics training was completed during the 2-year licensing cycle for which he or she is currently licensed.
 - 74) One CE hour shall equal one clock hour of attendance. Credit~~After completion of the initial CE hour, credit~~ may be given in one-half hour increments.
 - 85) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.
 - 96) Speech-language pathologists and audiologists licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.
- b) Approved Continuing Education ~~(CE)~~
- 1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at, or participation in, a program or course (program) that is offered or sponsored by an approved ~~CE continuing education~~ sponsor who meets the requirements set forth in subsection (c), except for those activities provided in subsections (b)(2), (3) and (4).
 - 2) CE credits may be earned for completion of a distance learning course that is offered by an approved sponsor who meets the requirements set forth in subsection (c). Each distance learning course shall include an examination.
 - 3) CE credit may be earned through postgraduate training programs in speech-language pathology or audiology (e.g., extern, residency or fellowship programs) or completion of speech-language pathology or

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audiology related courses that are a part of the curriculum of a college, university or graduate school. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.

- 4) CE credit may be earned for authoring papers, publications, dissertations or books and for preparing presentations and exhibits in the field of speech-language pathology and audiology. The preparation of each published paper, book chapter or professional presentation dealing with speech-language pathology or audiology may be claimed for a maximum of 5 hours of CE credit. A presentation must be before an audience of speech-language pathologists, audiologists or related professionals. Five credit hours may be claimed for only the first time the information is published or presented.
- c) Approved CE Sponsors and Programs
- 1) Sponsor, as used in this Section, shall mean:
 - A) American Speech-Language-Hearing Association and its affiliates;
 - B) American Academy of Audiology and its affiliates;
 - C) Illinois Speech-Language-Hearing Association and its affiliates.
 - D) Illinois Academy of Audiology and its affiliates;
 - E) Any other accredited college or university, State agency, or any other person, firm, or association that has been approved and authorized by the Division in accordance with subsection (c)(2) to coordinate and present ~~CE~~continuing education courses and programs in conjunction with this Section.
 - 2) An entity, not listed in subsection (c)(1), seeking approval as a CE sponsor shall submit an application, on forms supplied by the Division, along with a \$500 application fee. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The application shall include:

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- A) Certification:
- i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) and all other criteria in this Section;
 - ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and shall provide a certificate of attendance as set forth in subsection (c)(9);
 - iii) That, upon request by the Division, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Division has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance;
 - iv) That each sponsor shall submit to the Division written notice of program offerings, including program offerings of subcontractors, 30 days prior to course dates. Notice shall include the description, location, date and time of the program to be offered;
- B) A copy of a sample program with faculty, course materials and syllabi.
- 3) All programs shall:
- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of speech-language pathology or audiology;
 - B) Foster the enhancement of general or specialized speech-language pathology or audiology practice and values;
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;

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- D) Specify the course objectives, course content and teaching methods to be used; and
 - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.
 - 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the approved sponsor. The presenter of the program may also be identified, but should be identified as a presenter. When an approved sponsor subcontracts with a presenter, the approved sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.
 - 6) All programs given by approved sponsors shall be open to all licensed speech-language pathologists, licensed audiologists and licensed speech-language pathology assistants and not be limited to members of a single organization or group.
 - 7) To maintain approval as a sponsor, each shall submit to the Division by October 31 of each odd-numbered year a renewal application, a \$250 fee and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given by the sponsor and by any subcontractor.
 - 8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

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- A) The name, address and license number, if applicable, of the sponsor;
 - B) The name and address of the participant;
 - C) A brief statement of the subject matter;
 - D) The number of hours attended in each program;
 - E) The date and place of the program; and
 - F) The signature of the sponsor.
- 9) The sponsor shall maintain attendance records for not less than 5 years.
 - 10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
 - 11) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until ~~such time as~~ the Division receives assurances of compliance with this Section.
 - 12) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.
- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b).
 - 2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Division's random audit. It is the responsibility of each renewal applicant to retain or otherwise

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produce evidence of compliance.

- 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

e) ~~CE~~Continuing Education Earned in Other Jurisdictions

- 1) If a licensee has earned CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, prior to participation in the program or 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3)~~-of this Section~~.
- 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$25 processing fee plus a \$10 per hour late fee not to exceed \$150. The Board shall review and recommend approval and disapproval of the program using the criteria set forth in subsection (c)(3)~~-of this Section~~.

f) Waiver of CE Requirements

- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application along with the required fee set forth in Section 1465.75 of this Part, a statement setting forth the facts concerning non-compliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds from the affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

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- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
 - B) An incapacitating illness documented by a statement from a currently licensed physician;
 - C) Any other similar extenuating circumstances.
- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section, shall be deemed to be in good standing until the final decision on the application is made by the Division.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1465.95 Professional Conduct Standards

The Division may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action based upon its finding of "unethical, unauthorized, or unprofessional conduct" within the meaning of Section 16 of the Act, which is interpreted to include, but is not limited to, the following acts or practices:

- a) Practicing, condoning, facilitating, or otherwise being involved in, any form of discrimination. The licensee should act to prevent and eliminate discrimination against any person or group on the basis of race, color, sex, sexual orientation, age, religion, national origin, marital status, political belief, mental or physical handicap, or any other preference or personal characteristic, condition or status;
- b) Engaging in any action that violates or diminishes the civil or legal rights of clients;
- c) Engaging in the sexual exploitation of clients, students or supervisees;
- d) Engaging in or condoning sexual harassment, which is defined as unwelcome deliberate or repeated comments, gestures or physical contacts of a sexual nature;

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- e) Failing to offer all pertinent facts regarding services rendered to the client prior to administration of professional services. The purpose of informed consent is to insure a client's complete access to information pertaining to professional services. Examples include, but are not limited to, fees for services, length of treatment and utilization of consultants. The client's signature indicating receipt of pertinent information is strongly encouraged;
- f) Failing to take appropriate steps to protect the privacy of a client and avoid unnecessary disclosures of confidential information;
- g) Performing, or pretending to be able to perform, professional services beyond one's scope of practice and one's competency;
- h) Failing to inform clients of the use of all experimental methods of treatment; safety precautions shall be adhered to by the licensee;
- i) Failing to establish and maintain client records;
- j) Deceptive, misleading or false representation. Licensees must assert and imply only credentials possessed and are responsible for correcting any misrepresentations of their credentials by others. Credentials include highest relevant degrees, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, professional membership, or any other credential that might indicate to the public specialized knowledge or expertise in speech-language pathology or audiology;
- k) Submission of fraudulent claims for services to any person or entity including, but not limited to, health insurance companies or health service plans or third party payors;
- l) Knowingly providing services to a client when the licensee's ability to practice is impaired. Causes of impairment may include, but are not limited to, the abuse of mood altering chemicals and physical or mental problems;
- m) Permitting a student or supervisee under his/her supervision or control to perform, or permitting the student or supervisee to hold himself or herself out as competent to perform, services beyond the trainee's, intern's, or assistant's level of education, training and/or experience;

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- n) Allowing the student or supervisee to violate the rights of clients, permitting a trainee to violate confidentiality standards or failing to ensure that the client is informed that he/she is being treated by a student or supervisee;
- o) Failing to inform prospective research subjects or their authorized representative fully of potential serious after effects of the research or failing to remove the after effects as soon as the design of the research permits;
- p) The Division hereby incorporates by reference the "Code of Ethics" of the American Speech-Language-Hearing Association (~~20162019~~), 2200 Research Boulevard, Rockville, ~~MD~~Maryland 20850, and the "Code of Ethics" of the American Academy of Audiology (~~20182009~~), 11730 Plaza American Dr., Suite 300, Reston, ~~VA~~Virginia 20190, with no later amendments or editions.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1465.100 Basic Health Screenings

- a) A speech-language pathologist or audiologist may perform basic health screenings as authorized in Section 8.3 of the Act.
- b) The speech-language pathologist or audiologist must receive training appropriate to the screenings he or she performs from one of the following:
 - 1) as part of the curriculum of an approved program;
 - 2) through worksite training; or
 - 3) through CE.

(Source: Added at 44 Ill. Reg. _____, effective _____)

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Sports Wagering
- 2) Code Citation: 11 Ill. Adm. Code 1900
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1900.110	New Section
1900.120	New Section
1900.130	New Section
1900.150	New Section
1900.160	New Section
1900.210	New Section
1900.220	New Section
1900.230	New Section
1900.240	New Section
1900.250	New Section
1900.260	New Section
1900.270	New Section
1900.310	New Section
1900.320	New Section
1900.330	New Section
1900.500	New Section
1900.510	New Section
1900.520	New Section
1900.530	New Section
1900.700	New Section
1900.710	New Section
1900.715	New Section
1900.720	New Section
1900.730	New Section
1900.735	New Section
1900.740	New Section
1900.750	New Section
1900.760	New Section
1900.770	New Section
1900.780	New Section
1900.790	New Section
1900.795	New Section
1900.810	New Section
1900.815	New Section

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1900.820	New Section
1900.825	New Section
1900.830	New Section
1900.835	New Section
1900.840	New Section
1900.850	New Section
1900.860	New Section
1900.870	New Section
1900.880	New Section
1900.890	New Section
1900.895	New Section
1900.910	New Section
1900.915	New Section
1900.920	New Section
1900.925	New Section
1900.930	New Section
1900.935	New Section
1900.940	New Section
1900.945	New Section
1900.950	New Section
1900.960	New Section
1900.970	New Section
1900.980	New Section
1900.990	New Section
1900.995	New Section

- 4) Statutory Authority: Section 25-15 (b) of the Sports Wagering Act [230 ILCS 45/25-15 (b)] provides that: "The Board may adopt any rules the Board considers necessary for the successful implementation, administration, and enforcement of this Act, except for Section 25-70."
- 5) A Complete Description of the Subjects and Issues Involved: These proposed rules implement the provisions of the Sports Wagering Act enacted by PA 101-31, effective June 28, 2019, and amended by PA 101-597, effective December 6, 2019. The emergency rules add a new Part to the Illinois Administrative Code entitled "Sports Wagering" [11 Ill. Adm. Code Part 1900]. The new Part contains the following Subparts:

Subpart A: General Provisions

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NOTICE OF PROPOSED RULES

- Subpart B: Duties of Licensees
- Subpart C: Standards of Conduct
- Subpart E: Licensing Qualifications
- Subpart G: Licensing Procedures
- Subpart H: Denials of Applications
- Subpart I: Disciplinary Proceedings

- 6) Published studies and reports, and underlying sources of data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? Yes
- 8) Does the 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 or expand a State mandate under 30 ILCS 805.
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:

Agostino Lorenzini
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago IL 60601

fax: 312/814-7253

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: The rulemaking will affect persons and entities licensed under the Sports Wagering Act that qualify as small businesses.
 - B) Reporting, bookkeeping or other procedures required for compliance: Implementation of the Sports Wagering Act [230 ILCS 45] in accordance with its legislative intent requires strict regulation of the persons and practices engaged in sports wagering in Illinois. All applicants for licensure must show their ability to meet the licensing requirements. The proposed rules detail organizational, financial, and other background information that applicants for licensure must provide to establish eligibility for licensure.
 - C) Types of professional skills necessary for compliance: The rulemaking will require professional skills in the areas of law, accounting and auditing, and regulatory compliance.
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rule:
 - 51 Information
 - 54 Professional, Scientific and Technical Services
 - 55 Management of Companies and Enterprises
 - B) Categories that the Agency reasonably believes the rulemaking will impact, including:
 - i. hiring and additional staffing
 - vii. regulatory requirements
 - viii. record keeping
- 15) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda.

The full text of the Proposed Rules is identical to that of the Emergency Rules found in this issue of the *Illinois Register* on page 314.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Corporate Governance Annual Disclosure
- 2) Code Citation: 50 Ill. Adm. Code 630
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
630.10	New Section
630.20	New Section
630.30	New Section
630.40	New Section
- 4) Statutory Authority: Implementing Sections 130.1 through 130.7 and authorized by Sections 130.5 and 401 of the Illinois Insurance Code [215 ILCS 5].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed new rules will require corporate governance reporting for insurers and provides for the confidential treatment of this information. The NAIC's Corporate Governance Annual Disclosure Model Act (#305) and Corporate Governance Annual Disclosure Model Regulation (#306) will be accreditation standards effective 1/1/2020.

The rules will not impose additional corporate governance rules, standards or procedures on insurance companies, but requires a new annual filing to be submitted to the Department by each insurance company that describes the corporate governance structure, policies and practices in use at the company. Regulatory oversight of insurance companies has changed significantly in the past five years with more focus on how a company manages itself, and, in particular, how it identifies, assesses and mitigates risks. The filing will assist regulators in fulfilling their oversight responsibilities.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Insurers domiciled in Illinois are required to complete the filing.
 - B) Reporting, bookkeeping or other procedures required for compliance: The rules will not impose additional corporate governance rules, standards or procedures on insurance companies, but requires a new annual filing to be submitted to the Department by each insurance company that describes the corporate governance structure, policies and practices in use at the company.
 - C) Types of professional skills necessary for compliance: The annual filing should be completed by an insurer's senior management responsible for corporate governance.
- 14) Small Business Impact Analysis:
 - A) Types of businesses subject to the proposed rules: Insurers domiciled in Illinois are subject to the proposed rules

52 Finance and Insurance
 - B) Categories that the Agency reasonably believes the rulemaking will impact, including: The proposed rules will require insurers to file a new annual disclosure with the Department.
 - ii regulatory requirements.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because it was not anticipated within that time period.

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 630

CORPORATE GOVERNANCE ANNUAL DISCLOSURE

Sections

630.10	Purpose
630.20	Definitions
630.30	Filing Procedures
630.40	Contents of Corporate Governance Annual Disclosure

AUTHORITY: Implementing Sections 130.1 through 130.7 and authorized by Sections 130.5 and 401 of the Illinois Insurance Code [215 ILCS 5].

SOURCE: Adopted at 44 Ill. Reg. _____, effective _____.

Section 630.10 Purpose

The purpose of this Part is to set forth the procedures for filing, and the required contents of, the Corporate Governance Annual Disclosure (CGAD) deemed necessary by the Director to carry out the provisions of the Corporate Governance Annual Disclosure Law [215 ILCS 5/Art. VIII.33].

Section 630.20 Definitions

"Act" means the Corporate Governance Annual Disclosure Law [215 ILCS 5/Art. VIII.33].

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

"Department" means the Illinois Department of Insurance.

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

"Insurance group" has the meaning ascribed in the Act.

"Insurer" has the meaning ascribed in the Act.

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"Senior management" means any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and shall include, but not be limited to, the Chief Executive Officer (CEO), Chief Financial Officer (CFO), Chief Operations Officer (COO), Chief Procurement Officer (CPO), Chief Legal Officer (CLO), Chief Information Officer (CIO), Chief Technology Officer (CTO), Chief Revenue Officer (CRO), Chief Visionary Officer (CVO), or any other "C" level executive.

Section 630.30 Filing Procedures

- a) An insurer, or the insurance group of which the insurer is a member, that is required to file a CGAD by the Act, shall submit to the Director a CGAD that meets the requirements of the Act and contains the information described in Section 630.40 no later than June 1 of each year.
- b) The insurer or insurance group shall have discretion regarding the appropriate format for providing the information required by these regulations and is permitted to customize the CGAD to provide the most relevant information necessary to permit the Commissioner to gain an understanding of the corporate governance structure, policies and practices utilized by the insurer or insurance group.
- c) Each year following the initial filing of the CGAD, the insurer or insurance group shall file an amended version of the previously filed CGAD indicating where changes have been made. If no changes were made in the information or activities reported by the insurer or insurance group, the filing should so state.
- d) The insurer or insurance group shall be as descriptive as possible in completing the CGAD, with inclusion of attachments or example documents that are used in the governance process.
- e) An insurer or insurance group may reference other existing documents (e.g., ORSA Summary Report, Holding Company Form B or F Filings, Securities and Exchange Commission (SEC) Proxy Statements, foreign regulatory reporting requirements) if the documents provide information that is comparable to the information described in Section 630.40. The insurer or insurance group shall clearly reference the location of the relevant information within the CGAD and

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attach the referenced document if it is not already filed or available to the regulator.

Section 630.40 Contents of Corporate Governance Annual Disclosure

- a) The CGAD shall describe the insurer's or insurance group's corporate governance framework and structure including consideration of the following:
 - 1) The Board and various committees ultimately responsible for overseeing the insurer or insurance group and the levels at which that oversight occurs (e.g., ultimate control level, intermediate holding company, legal entity). The insurer or insurance group shall describe and discuss the rationale for the current Board size and structure; and
 - 2) The duties of the Board and each of its significant committees and how they are governed (e.g., bylaws, charters, informal mandates), as well as how the Board's leadership is structured, including a discussion of the roles of CEO and Chairman of the Board within the organization.
- b) The insurer or insurance group shall describe the policies and practices of the most senior governing entity and significant committees, including a discussion of the following factors:
 - 1) How the qualifications, expertise and experience of each Board member meet the needs of the insurer or insurance group;
 - 2) How an appropriate amount of independence is maintained on the Board and its significant committees;
 - 3) The number of meetings held by the Board and its significant committees over the past year as well as information on director attendance;
 - 4) How the insurer or insurance group identifies, nominates and elects members to the Board and its committees. The discussion should include, for example:
 - A) Whether a nomination committee is in place to identify and select individuals for consideration;

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- B) Whether term limits are placed on directors;
 - C) How the election and re-election processes function; and
 - D) Whether a Board diversity policy is in place and if so, how it functions; and
- 5) The processes in place for the Board to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance (including any Board or committee training programs that have been put in place).
- c) The insurer or insurance group shall describe the policies and practices for directing senior management, including a description of the following factors:
- 1) Any processes or practices (i.e., suitability standards) to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their prospective roles, including:
 - A) Identification of the specific positions for which suitability standards have been developed and a description of the standards employed; and
 - B) Any changes in an officer's or key person's suitability as outlined by the insurer's or insurance group's standards and procedures to monitor and evaluate such changes.
 - 2) The insurer's or insurance group's code of business conduct and ethics, the discussion of which considers, for example:
 - A) Compliance with laws, rules, and regulations; and
 - B) Proactive reporting of any illegal or unethical behavior.
 - 3) The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs

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are designed to reward. The description shall include sufficient detail to allow the Director to understand how the organization ensures that compensation programs do not encourage and/or reward excessive risk taking. Elements to be discussed may include, but are not limited to:

- A) The Board's role in overseeing management compensation programs and practices;
 - B) The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid;
 - C) How compensation programs are related to both company and individual performance over time;
 - D) Whether compensation programs include risk adjustments and how those adjustments are incorporated into the programs for employees at different levels;
 - E) Any clawback provisions built into the programs to recover awards or payments if the performance measures upon which they are based are restated or otherwise adjusted; and
 - F) Any other factors relevant in understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees.
- 4) The insurer's or insurance group's plans for CEO and senior management succession.
- d) The insurer or insurance group shall describe the processes by which the Board, its committees and senior management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's business activities, including a discussion of:
- 1) How oversight and management responsibilities are delegated between the Board, its committees and senior management;

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- 2) How the Board is kept informed of the insurer's strategic plans, the associated risks, and steps that senior management is taking to monitor and manage those risks;
- 3) How reporting responsibilities are organized for each critical risk area. The description should allow the Director to understand the frequency at which information on each critical risk area is reported to and reviewed by senior management and the Board. This description may include, but is not limited to, the following critical risk areas of the insurer:
 - A) Risk management processes (An ORSA Summary Report filer may refer to its ORSA Summary Report pursuant to Article VIII.25 of the Code);
 - B) Actuarial function;
 - C) Investment decision-making processes;
 - D) Reinsurance decision-making processes;
 - E) Business strategy/finance decision-making processes;
 - F) Compliance function;
 - G) Financial reporting/internal auditing; and
 - H) Market conduct decision-making processes.

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers: Proposed Actions:
 100.2197 Amendment
 100.2590 Amendment
 100.3100 Amendment
 100.3120 Amendment
 100.7010 Amendment
- 4) Statutory Authority: 35 ILCS 5/304(a)(2)(B), 601(b)(3), 701(a-5)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Sections 100.2197, 100.2590, 100.3100, 100.3120 and 100.7010 of the Illinois Income Tax regulations to reflect amendments to the "duty days" provisions in the IITA for allocating compensation of professional athletes enacted in PA 94-247 and to reflect the "working days" provisions for allocating compensation of employees generally enacted in PA 101-585. It also updates references to federal laws and eliminates duplicative provisions in the regulations.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
100.4100	New Section	43 Ill. Reg. 10387; September 20, 2019
100.2055	Amendment	43 Ill. Reg. 10682; September 27, 2019
100.2160	Amendment	43 Ill. Reg. 10682; September 27, 2019
100.2165	Amendment	43 Ill. Reg. 10682; September 27, 2019
100.2171	Amendment	43 Ill. Reg. 10682; September 27, 2019
100.2180	Amendment	43 Ill. Reg. 10682, September 27, 2019

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100.2181	New Section	43 Ill. Reg. 10682; September 27, 2019
100.2185	Amendment	43 Ill. Reg. 10682; September 27, 2019
100.2199	Amendment	43 Ill. Reg. 10682; September 27, 2019
100.2470	Amendment	43 Ill. Reg. 11073; October 11, 2019

- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:
- Brian Fliflet
Acting General Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson St. MC 5-500
Springfield IL 62794
- 217/782-2844
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking provides guidance for small businesses on changes to types of income that are exempt under the Illinois Income Tax Act.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

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NOTICE OF PROPOSED AMENDMENTS

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

SUBPART A: TAX IMPOSED

Section

100.2000	Introduction
100.2050	Net Income (IITA Section 202)
100.2055	Standard Exemption (IITA Section 204)
100.2060	Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

SUBPART B: CREDITS

Section

100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA Section 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171	Angel Investment Credit (IITA 220)
100.2175	Invest in Kids Credit (IITA 224)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2185	Film Production Services Credit (IITA Section 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193	Student-Assistance Contributions Credit (IITA 218)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)

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- 100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
- 100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
- 100.2198 Economic Development for a Growing Economy Credit (IITA 211)
- 100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

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

Section

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

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

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or

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- After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986 (IITA Section 207)
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership
- 100.2360 Illinois Net Losses and Illinois Net Loss Deductions for Losses of Cooperatives Occurring On or After December 31, 1986 (IITA Section 203(e)(2)(F))

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

Section

- 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
- 100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2465 Claim of Right Repayments (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone and River Edge Redevelopment Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

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Section	
100.2510	Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y))
100.2565	Subtraction for Recovery of Itemized Deductions (IITA Section 203(a)(2)(I))
100.2580	Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590	Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF CORPORATIONS

Section	
100.2655	Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
100.2657	Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))
100.2665	Subtraction for Payments to an Attorney-in-Fact (IITA Section 203(b)(2)(R))
100.2668	Subtraction for Dividends from Controlled Foreign Corporations (IITA Section 203(b)(2)(Z))

SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

Section	
100.2770	Subtraction for Recovery of Itemized Deductions of a Decedent (IITA Section 203(c)(2)(W))
100.2775	Subtraction for Refunds of Taxes Paid to Other States for Which a Credit Was Claimed (IITA Section 203(c)(2)(X))

SUBPART I: BASE INCOME OF PARTNERSHIPS

Section	
100.2850	Subtraction Modification for Personal Service Income or Reasonable Allowance for Compensation to Partners (IITA Section 203(d)(2)(H))

SUBPART J: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section	
100.3000	Terms Used in Article 3 (IITA Section 301)

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- 100.3010 Business and Nonbusiness Income (IITA Section 301)
- 100.3015 Business Income Election (IITA Section 1501)
- 100.3020 Resident (IITA Section 301)

SUBPART K: COMPENSATION

Section

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

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

Section

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

SUBPART M: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
- 100.3310 Business Income of Persons Other Than Residents (IITA Section 304) – In General
- 100.3320 Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
- 100.3330 Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
- 100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
- 100.3350 Property Factor (IITA Section 304)
- 100.3360 Payroll Factor (IITA Section 304)
- 100.3370 Sales Factor (IITA Section 304)
- 100.3371 Sales Factor for Telecommunications Services
- 100.3373 Sales Factor for Publishing
- 100.3380 Special Rules (IITA Section 304)
- 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
- 100.3400 Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))

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- 100.3405 Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
- 100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
- 100.3450 Apportionment of Business Income of Transportation Companies (IITA Section 304(d))
- 100.3500 Allocation and Apportionment of Base Income by Nonresident Partners
- 100.3600 Combined Apportionment for Taxpayers Using Different Apportionment Formulas (IITA Section 1501(a)(27))

SUBPART N: ACCOUNTING

Section

- 100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART O: TIME AND PLACE FOR FILING RETURNS

Section

- 100.5000 Time for Filing Returns (IITA Section 505)
- 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
- 100.5040 Innocent Spouses
- 100.5050 Frivolous Returns
- 100.5060 Reportable Transactions (IITA Section 501(b))
- 100.5070 List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
- 100.5080 Registration of Tax Shelters (IITA Section 1405.5)

SUBPART P: COMPOSITE RETURNS

Section

- 100.5100 Composite Returns: Eligibility (IITA Section 502(f))
- 100.5110 Composite Returns: Responsibilities of Authorized Agent
- 100.5120 Composite Returns: Individual Liability
- 100.5130 Composite Returns: Required forms and computation of Income (IITA Section 502(f))
- 100.5140 Composite Returns: Estimated Payments

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100.5150	Composite Returns: Tax, Penalties and Interest
100.5160	Composite Returns: Credits on Separate Returns
100.5170	Composite Returns: Definition of a "Lloyd's Plan of Operation"
100.5180	Composite Returns: Overpayments and Underpayments

SUBPART Q: COMBINED RETURNS

Section

100.5200	Filing of Combined Returns
100.5201	Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205	Election to File a Combined Return
100.5210	Procedures for Elective and Mandatory Filing of Combined Returns
100.5215	Filing of Separate Unitary Returns (IITA Section 304(e))
100.5220	Designated Agent for the Members (IITA Section 304(e))
100.5230	Combined Estimated Tax Payments
100.5240	Claims for Credit of Overpayments
100.5250	Liability for Combined Tax, Penalty and Interest
100.5260	Combined Amended Returns
100.5265	Common Taxable Year
100.5270	Computation of Combined Net Income and Tax (IITA Section 304(e))
100.5280	Combined Return Issues Related to Audits

SUBPART R: PAYMENTS

Section

100.6000	Payment on Due Date of Return (IITA Section 601)
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SUBPART S: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section

100.7000	Requirement of Withholding (IITA Section 701)
100.7010	Compensation Paid in this State (IITA Section 701)
100.7020	Transacting Business Within this State (IITA Section 701)
100.7030	Payments to Residents (IITA Section 701)
100.7035	Nonresident Partners, Subchapter S Corporation Shareholders, and Trust Beneficiaries (IITA Section 709.5)
100.7040	Employer Registration (IITA Section 701)
100.7050	Computation of Amount Withheld (IITA Section 702)
100.7060	Additional Withholding (IITA Section 701)

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100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

SUBPART T: AMOUNT EXEMPT FROM WITHHOLDING

Section

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

SUBPART U: INFORMATION STATEMENT

Section

100.7200	Reports for Employee (IITA Section 703)
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SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section

100.7300	Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)
100.7310	Returns Filed and Payments Made on Annual Basis (IITA Sections 704 and 704A)
100.7320	Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)
100.7325	Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
100.7330	Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
100.7340	Correction of Underwithholding or Overwithholding (IITA Section 704)
100.7350	Domestic Service Employment (IITA Sections 704 and 704A)
100.7360	Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
100.7370	Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
100.7380	Economic Development for a Growing Economy (EDGE) and Small Business Job Creation Credit (IITA Section 704A(g) and (h))

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SUBPART W: ESTIMATED TAX PAYMENTS

Section

- 100.8000 Payment of Estimated Tax (IITA Section 803)
- 100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

SUBPART X: COLLECTION AUTHORITY

Section

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

SUBPART Y: NOTICE AND DEMAND

Section

- 100.9100 Notice and Demand (IITA Section 902)

SUBPART Z: ASSESSMENT

Section

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

SUBPART AA: DEFICIENCIES AND OVERPAYMENTS

Section

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

SUBPART BB: CREDITS AND REFUNDS

Section

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

SUBPART CC: INVESTIGATIONS AND HEARINGS

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Section

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

SUBPART DD: JUDICIAL REVIEW

Section

100.9600	Administrative Review Law (IITA Section 1201)
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SUBPART EE: DEFINITIONS

Section

100.9700	Unitary Business Group Defined (IITA Section 1501)
100.9710	Financial Organizations (IITA Section 1501)
100.9715	Transportation Companies (IITA Section 304(d))
100.9720	Nexus
100.9730	Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750	Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART FF: LETTER RULING PROCEDURES

Section

100.9800	Letter Ruling Procedures
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SUBPART GG: MISCELLANEOUS

Section

100.9900	Tax Shelter Voluntary Compliance Program
100.9910	State Tax Preparer Oversight Act [35 ILCS 35]

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

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(Repealed)

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

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998;

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amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective

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June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014; amended at 38 Ill. Reg. 23158, effective November 21, 2014; emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 1768, effective January 7, 2015; amended at 39 Ill. Reg. 5057, effective March 17, 2015; amended at 39 Ill. Reg. 6884, effective April 29, 2015; amended at 39 Ill. Reg. 15594, effective November 18, 2015; amended at 40 Ill. Reg. 1848, effective January 5, 2016; amended at 40 Ill. Reg. 10925, effective July 29, 2016; amended at 40 Ill. Reg. 13432, effective September 7, 2016; amended at 40 Ill. Reg. 14762, effective October 12, 2016; amended at 40 Ill. Reg. 15575, effective November 2, 2016; amended at 41 Ill. Reg. 4193, effective March 27, 2017; amended at 41 Ill. Reg. 6379, effective May 22, 2017; amended at 41 Ill. Reg. 10662, effective August 3, 2017; amended at 41 Ill. Reg. 12608, effective September 21, 2017; amended at 41 Ill. Reg. 14217, effective November 7, 2017; emergency amendment at 41 Ill. Reg. 15097, effective November 30, 2017, for a maximum of 150 days; amended at 42 Ill. Reg. 4953, effective February 28, 2018; amended at 42 Ill. Reg. 6451, effective March 21, 2018; recodified Subpart H to Subpart G at 42 Ill. Reg. 7980; amended at 42 Ill. Reg. 17852, effective September 24, 2018; amended at 42 Ill. Reg. 19190, effective October 12, 2018; amended at 43 Ill. Reg. 727, effective December 18, 2018; amended at 43 Ill. Reg. 10124, effective August 27, 2019; amended at 44 Ill. Reg. _____, effective _____.

SUBPART B: CREDITS

Section 100.2197 Foreign Tax Credit (IITA Section 601(b)(3))

- a) IITA Section 601(b)(3) provides that *the aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by IITA Section 201(a) and (b) shall be credited against the tax imposed by IITA Section 201(a) and (b) otherwise due under the IITA for ~~that~~ taxable year.* [\(IITA Section 601\(b\)\(3\)\)](#)
- b) Definitions applicable to this Section.
 - 1) Tax qualifying for the credit. A tax qualifies for the credit only if it is *imposed upon or measured by income* and is *paid by an Illinois resident to another state on income which is also subject to Illinois income tax.*
 - A) A tax "imposed upon or measured by income" shall mean an income tax or tax on profits imposed by a state and deductible

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under IRC section 164(a)(3). ~~The~~ Such term shall not include penalties or interest imposed with respect to the tax.

- B) A tax is "paid by an Illinois resident" to another state "on income which is also subject to Illinois income tax" only to the extent the income included in the tax base of the other state is also included in base income computed under IITA Section 203 during a period in which the taxpayer is an Illinois resident. Thus, for example, income tax paid to another state on retirement income excluded from base income under IITA Section 203(a)(2)(F) does not qualify for the credit, nor would income derived from a partnership or Subchapter S corporation whose tax year ends during a period in which the taxpayer is not an Illinois resident. See IRC section 706(a) and IRC section 1366(a)(1). If tax is paid to another state on income that is not included in base income or on income attributable to a period when the taxpayer was not a resident of Illinois, as well as on income that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois, the amount of tax qualifying for the credit shall be determined by multiplying the tax paid by a fraction equal to the income taxed by the other state that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois divided by the total tax base on which the other state's tax was computed.
- 2) For purposes of IITA Section 601(b)(3), "state" *means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any political subdivision of any of the foregoing.* (IITA Section 1501(a)(22)) This definition is effective for tax years ending on or after December 31, 1989. The term "state" does not include foreign countries or any political subdivision of a foreign country.
- 3) "Resident" is defined at IITA Section 1501(a)(20) and in Section 100.3020 ~~of this Part.~~
- 4) *Base income subject to tax both by another state and by this State* or "double-taxed income" means items of income minus items deducted or excluded in computing the tax for which credit is claimed, to the extent

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~~those~~ items of income, deduction or exclusion are taken into account in the computation of base income under IITA Section 203 for the person claiming the credit. However, under IITA Section 601(b)(3), as in effect prior to January 1, 2006 (the effective date of Public Act 94-247), *no compensation received by a resident which qualifies as compensation paid in this State as determined under IITA Section 304(a)(2)(B) shall be considered income subject to tax by another state or states.*

- A) Under IITA Section 203(a), base income of an individual is computed without allowing the standard deduction allowed in computing federal taxable income, and without allowing the exemptions provided in IITA Section 204. Double-taxed income is therefore computed without reduction for any standard deductions or exemptions allowed by the other state.
- B) An item of income is not included in double-taxed income to the extent it is excluded or deducted in computing the tax for which the credit is claimed. For example, State X allows a deduction or exclusion equal to 60% of long-term capital gains and for 100% of winnings from the State X lottery. Only 40% of long-term capital gains is subject to tax in that state. Similarly, an individual subject to the Washington, D.C. unincorporated business tax is allowed to deduct from taxable income a reasonable allowance for compensation for personal services rendered. This deduction is in fact an exclusion for the "personal income" of the individual, which Congress has forbidden Washington, D.C. to tax except in the case of residents. Accordingly, double-taxed income is net of this deduction.
- C) An item of income that is excluded, subtracted or deducted in the computation of base income under IITA Section 203 cannot be included in double-taxed income. For example, IITA Section 203(a)(2)(L) allows a subtraction for federally-taxed Social Security and Railroad Retirement benefits, while dividends received from a Subchapter S corporation are excluded from federal gross income and therefore from base income. Accordingly, even if another state taxes ~~those~~ benefits or dividends, these amounts are not included in double-taxed income.

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- D) An item of expense is deducted or subtracted in computing double-taxed income only to the extent that item is deducted or subtracted in computing the tax base in the other state and in computing base income under IITA Section 203. For example, State Y allows deductions for federal itemized deductions and for individual federal income taxes paid. No deduction for federal income taxes is allowed in computing base income under IITA Section 203, and so that deduction is not taken into account in computing base income subject to tax in State Y. Also, IITA Section 203(a) generally does not allow a deduction for federal itemized deductions, and so federal itemized deductions are generally not taken into account in computing base income subject to tax in State Y. However, IITA Section 203(a)(2)(V) allows self-employed individuals a subtraction modification for health insurance premiums, which can be taken as an itemized deduction in computing federal taxable income in some taxable years. Accordingly, in the case of a self-employed individual eligible for the Illinois subtraction, any itemized deduction for health insurance premiums taken into account in computing the State Y tax base is also taken into account in computing double-taxed income.
- E) For taxable years beginning prior to January 1, 2006, compensation paid in Illinois under IITA Section 304(a)(2)(B), as further explained in Section 100.3120 as in effect for the taxable year of this Part, is not included in double-taxed income, even if another state taxes that such compensation. For example, an Illinois resident whose base of operations is in Illinois during 2005, but whose employment requires him or her to work in Illinois and for a substantial period of time in State Z, must treat all compensation from his or her such employment as paid in Illinois under IITA Section 304(a)(2)(B)(iii) as in effect for 2006. None of that compensation may be included in double-taxed income, even if State Z actually taxes the compensation earned for periods during which the resident was working in State Z. Public Act 94-247 (effective January 1, 2006) repealed the provision in IITA Section 601(b)(3) that stated compensation paid in Illinois may not be included in double-taxed income, and so compensation paid in Illinois may be included in double-taxed income in taxable years

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beginning on or after January 1, 2006.

- F) Some states impose an alternative minimum tax similar to the tax imposed by IRC section 55, under which a taxpayer computes a regular taxable income and also computes an alternative minimum taxable income by reducing some exclusions or deductions, and eliminating other exclusions and deductions entirely. The taxpayer applies different rate structures to regular taxable income and to alternative minimum taxable income, and is liable for the higher of the two taxes so computed. An item of income included in a state's alternative minimum taxable income but not in the regular taxable income of that state is not included in base income subject to tax in that state unless the taxpayer is actually liable for alternative minimum tax in that state. For example, a state allows a 60% capital gains exclusion for regular tax purposes, but includes 100% of the capital gains in its alternative minimum taxable income. If a taxpayer incurs alternative minimum tax liability in that state, 100% of the capital gains is included in double-taxed income. If only regular tax liability is incurred, only 40% of capital gains is included in double-taxed income.
- G) Some states compute the tax liability of a nonresident by first computing the tax on all income of the nonresident from whatever source derived, and then multiplying the resulting amount by a percentage equal to in-state sources of income divided by total sources of income or by allowing a credit based on the percentage of total income from sources outside the state. Other states determine the tax base of a nonresident by computing the tax base as if the person were a resident and multiplying the result by the percentage equal to in-state sources of income divided by total sources of income. The use of either of these methods of computing tax does not mean that income from all sources is included in double-taxed income. See *Comptroller of the Treasury v. Hickey*, 114 Md. App. 388, 689 A.2d 1316 (1997); *Chin v. Director, Division of Taxation*, 14 N.J. Tax 304 (T.C. N.J. 1994). When a state uses either of these methods of computation, double-taxed income shall be the base income of the taxpayer from all sources subject to tax in that state, as computed in accordance with the rest of this subsection (b)(4), multiplied by the percentage of

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income from sources in that state, as computed under that state's law; provided, however, that no compensation paid in Illinois under IITA Section 304(a)(2)(B) shall be treated as income from sources in that state in computing ~~that such~~ percentage in any taxable year beginning prior to January 1, 2006.

EXAMPLE 1: Individual, an Illinois resident, has federal adjusted gross income of \$80,000 in Year 1, comprised of \$75,000 in wages, \$1,000 in taxable interest and \$4,000 in net rental income. Taxable interest includes \$200 in interest on federal government obligations and excludes \$500 in municipal bond interest. The rental income is from property in State X. Individual is subject to \$6,000 in federal income tax in Year 1. Individual's Illinois base income is \$80,300: his \$80,000 in adjusted gross income, plus \$500 in municipal bond interest, minus \$200 in federal government obligation interest.

State X computes Individual's income subject to its tax by starting with the \$4,000 in net rental income included in his federal adjusted gross income, and requiring him to add back \$3,000 in depreciation allowed on his rental property under IRC Section 168 in excess of straight-line depreciation, and subtracting the portion of his federal income tax liability allocable to his State X income. State X also allows Individual an exemption of \$1,000.

Double-taxed income in this case is \$7,000: the \$4,000 in net rental income plus the \$3,000 addition modification for excess depreciation. The \$3,000 addition modification for excess depreciation is a deduction allowed by Illinois but not by State X, and only the amount of depreciation deductible in both states is taken into account. The subtraction for federal income tax and the exemption are not taken into account in computing base income under IITA Section 203(a), and therefore are not taken into account in computing double-taxed income.

EXAMPLE 2. Assume the same facts as in Example 1, except that State X requires Individual to compute income tax as if he were a resident of State X, and then multiply the result by a fraction equal to his federal adjusted gross income from State X sources divided by total federal adjusted gross income. Under this method, Individual has State X taxable income of \$76,300 (\$80,000 in federal adjusted gross income, plus \$500 in

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municipal bond interest and \$3,000 in excess depreciation, minus \$200 in federal government obligation interest, \$6,000 in federal income taxes, and the \$1,000 exemption). The fraction actually taxed by State X is 5% (the \$4,000 in rental income divided by \$80,000 in federal adjusted gross income).

Under subsection (b)(4)(G), double-taxed income is \$4,165, computed as follows. First, State X taxable income is computed using only those items of income and deduction taken into account by both State X and Illinois. Accordingly, the \$6,000 in federal income taxes and the \$1,000 exemption are not taken into account. The State X taxable income so computed is \$83,300 (\$80,000 federal adjusted gross income plus \$3,000 in excess depreciation and \$500 in municipal bond interest minus \$200 in federal government obligation interest). Multiplying that amount by the 5% fraction used by State X yields double-taxed income of \$4,165.

EXAMPLE 3: Assume the same facts as in Example 2, except that State X deems \$10,000 of Individual's wages to be earned in State X. Under IITA Section 304(a)(2)(B)(iii), all of Individual's wages are considered "compensation paid in this State", even though Individual performs services in State X, because Individual's base of operations is in Illinois. Accordingly, Individual's State X taxable income is \$76,300, just as in Example 2, but his fraction allocated to State X is 17.5% (\$10,000 in wages plus \$4,000 in net rental income, the total divided by \$80,000 in federal adjusted gross income).

For taxable years beginning prior to January 1, 2006, Individual's double-taxed income is \$4,165, the same as in Example 2. Because compensation deemed "paid in this State" cannot be treated as double-taxed income, the State X fraction must be computed under subsection (b)(4)(G) without treating the \$10,000 in wages as allocable to State X. Accordingly, double-taxed income is the \$83,300 total of all items taxed by both states minus deductions allowed by both states, times 5% (the \$4,000 in net rental income divided by the \$80,000 in federal adjusted gross income).

For taxable years beginning on or after January 1, 2006, Individual's double-taxed income is \$14,578, which is the \$83,300 total of all items taxed by both states minus deductions allowed by both states, times 17.5% (the \$10,000 in wages taxed by both states plus the \$4,000 in net rental

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income, divided by the \$80,000 in federal adjusted gross income).

- c) Amount of the credit. Subject to limitations described in ~~subsections~~subsection (d) ~~and (e) of this Section~~, the amount of the credit for a taxable year is the *aggregate amount of tax paid by a resident for the taxable year*. (IITA Section 601(b)(3)) Because the credit is allowed for taxes paid for the taxable year, rather than for taxes paid in or during the taxable year:
- 1) The amount of tax withheld for another state, estimated payments made to that state and overpayments from prior years applied against the current liability to that state are not relevant to the computation of the credit.
 - 2) Any credit (including a credit for taxes paid to Illinois or another state, but not including a credit that is allowed for an actual payment of tax, such as a credit for income taxes withheld, for estimated taxes paid or for an overpayment of income tax in another taxable year) that is taken into account in determining the amount of tax actually paid or payable to another state shall reduce the amount of credit to which the taxpayer is entitled under this Section. In a case in which the taxpayer claims a transferable credit purchased by the taxpayer on the other state's return, the amount of the credit allowed is~~shall be~~ treated as an actual payment of tax, and does not up to the amount the taxpayer paid for the credit, and only the amount of credit in excess of the amount paid shall reduce the amount of credit to which the taxpayer is entitled under this Section.
 - 3) Any increase or decrease in the amount of tax paid to another state for a taxable year, as the result of an audit, claim for refund, or other change, shall increase or decrease the amount of credit for that taxable year, not for the taxable year in which the increase or decrease is paid or credited.
- d) Limitations on the amount of credit allowed for taxable years ending prior to December 31, 2009. *The aggregate credit allowed under IITA Section 601(b)(3) shall not exceed that amount which bears the same ratio to the tax imposed by IITA Section 201(a) and (b) otherwise due as the amount the taxpayer's base income subject to tax both by ~~that~~ other state or states and by this State bears to his total base income subject to tax by this State for the taxable year.* (IITA Section 601(b)(3)) The credit allowed under this Section for taxable years ending prior to December 31, 2009 is therefore the smaller of either the total amount of taxes paid to other states for the year or the product of Illinois income tax

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otherwise due (before taking into account any Article 2 credit or the foreign tax credit allowed under IITA Section 601(b)(3)) multiplied by a fraction equal to the aggregate amount of the taxpayer's double-taxed income, divided by the taxpayer's Illinois base income.

- 1) In computing the aggregate amount of the taxpayer's double-taxed income, any item of income or deduction taken into account in more than one state shall be taken into account only once. For example, an individual subject to tax on his or her compensation by both State X and by a city in State X shall include the amount of ~~that such~~ compensation only once in computing the aggregate amount of double-taxed income.
 - 2) Because base income subject to tax both in another state and in Illinois cannot exceed 100% of base income, the credit cannot exceed 100% of the tax otherwise due under IITA Section 201(a) and (b).
 - 3) No carryover of any amount in excess of this limitation is allowed by the IITA.
- e) Limitations on the amount of credit allowed for taxable years ending on or after December 31, 2009.
- 1) *The credit allowed under IITA Section 601(b)(3) for tax paid to other states shall not exceed that amount which bears the same ratio to the tax imposed by IITA Section 201(a) and (b) otherwise due under the IITA as the amount of the taxpayer's base income that would be allocated or apportioned to other states if all other states had adopted the provisions in Article 3 of the IITA bears to the taxpayer's total base income subject to tax by this State for the taxable year. (IITA Section 601(b)(3)) The credit allowed under this Section for taxable years ending on or after December 31, 2009 is therefore the smaller of either the total amount of taxes paid to other states for the year or the product of Illinois income tax otherwise due (before taking into account any Article 2 credit or the foreign tax credit allowed under IITA Section 601(b)(3)) multiplied by a fraction equal to the amount of the taxpayer's base income that is sourced outside Illinois using the allocation and apportionment provisions of Article 3 of the IITA, divided by the taxpayer's Illinois base income.*

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- 2) For purposes of this subsection, the 30-day threshold in IITA Section 304(a)(2)(B)(iii) (as in effect for taxable years ending on or after December 31, 2020) and Section 100.3120(a)(1)(E) does not apply in determining the number of working days in which services are performed in another state during the year. (IITA Section 601(b)(3)) However, the provisions for employees providing services in this State during a disaster period in IITA Section 304(a)(2)(B)(iii)(c) and Section 100.3120(a)(1)(E)(ii) of this Part do apply.

EXAMPLE 4: Individual is an Illinois resident whose only income is employee compensation. Individual's employment requires him or her to spend a substantial amount of time each year working in other states, but Individual's base of operations under IITA Section 304(a)(2)(B)(iii) is in Illinois. For taxable years ending prior to December 31, 2020, because~~Because~~ all of Individual's base income is employee compensation that is sourced to Illinois under IITA Section 304(a)(2)(B)(iii) as in effect for that period, the limitation under this subsection on Individual's credit for taxes paid to other states will be zero, even if some or all of the employee compensation is actually taxed by another state. For taxable years ending on or after December 31, 2020, the amount of Individual's compensation allocated to other states is determined by using the working days formula under IITA Section 304(a)(2)(B)(iii), as in effect for the taxable year, and the number of working days Individual performed services in other states, without regard to whether Individual actually owed tax to any of those states or to the provision in IITA Section 304(a)(2)(B)(iii) that the working days formula applies only if the employee performs services in this State for more than 30 working days during the taxable year.

EXAMPLE 5: Individual is an Illinois resident whose only income is employee compensation. Individual's employment requires him or her to spend a substantial amount of time each year working in several states, but Individual's base of operations under IITA Section 304(a)(2)(B) is in a state that imposes no personal income tax. For taxable years ending prior to December 31, 2020,~~because~~~~Because~~ all of Individual's base income is employee compensation that is sourced outside Illinois under IITA Section 304(a)(2)(B), his or her credit for taxes paid to other states may offset 100% of his or her Illinois income tax liability, even if some of his or her employee compensation is not actually taxed by another state. For taxable years ending on or after December 31, 2020, the amount of Individual's compensation allocated to other states is determined by using the working days formula under IITA Section 304(a)(2)(B)(iii), as in effect

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for the taxable year, and the number of working days Individual performed services in other states, without regard to whether Individual actually owed tax to any of those states or to the provision in IITA Section 304(a)(2)(B)(iii) that the working days formula applies only if the employee performs services in this State for more than 30 working days during the taxable year.

EXAMPLE 6: Individual is an Illinois resident partner in a partnership engaged in multistate business activities, and his or her only income is business income derived from the partnership. The partnership apportions 25% of its business income to Illinois under IITA Section 304(a). Individual's credit may offset 75% of his or her Illinois income tax liability, regardless of how much of his or her income from the partnership is actually taxed by other states.

- f) Disallowance of credit for taxes deducted in computing base income. *The credit provided by IITA Section 601(b)(3) shall not be allowed if any creditable tax was deducted in determining base income for the taxable year.* (IITA Section 601(b)(3)) A trust that has deducted the amount of a state tax imposed upon or measured by net income may include ~~that such~~ tax in the computation of the credit allowed under this Section, but IITA Section 203(c)(2)(F) requires that trust to add back to its federal taxable income *an amount equal to the tax deducted pursuant to IRC section 164 if the trust or estate is claiming the same tax for purposes of the Illinois foreign tax credit.* The amount that must be added back for a taxable year shall be the amount of tax deducted for ~~that taxable such~~ year on the trust's federal income tax return. Because no similar provision is made for individuals, an individual who has deducted taxes paid to another state in computing his or her federal adjusted gross income may not claim a credit for ~~those such~~ taxes on his or her Illinois tax return.
- g) Credit for taxes paid on behalf of the taxpayer. An Illinois resident individual who is a shareholder or partner claiming a foreign tax credit for the shareholder's or partner's share of personal income taxes paid to a foreign state on his or her behalf by a Subchapter S corporation or a partnership, respectively, must attach to his or her Illinois return a written statement from the Subchapter S corporation or partnership containing the name and federal employee identification number of the Subchapter S corporation or partnership and clearly showing the paid amount of foreign tax attributable to the shareholder or partner, respectively. Additionally, for taxable years ending prior to December 31, 2009, the statement must include the shareholder's or partner's share of the Subchapter S corporation's or partnership's items of income, deduction and exclusion in sufficient detail to

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allow computation of the amount of base income subject to tax under subsection (b)(4) of this Section. Taxes imposed directly on the Subchapter S corporation or the partnership are not eligible for the credit.

- h) Documentation required to support claims for credit. Any person claiming the credit under IITA Section 601(b)(3) *shall attach a statement in support thereof and shall notify the Director of any refund or reductions in the amount of tax claimed as a credit under IITA Section 601(b)(3) all in ~~thesuch~~ manner and at ~~thesuch~~ time as the Department shall by regulations prescribe.* For taxable years ending on or after December 31, 2009, the documentation required to be provided with the taxpayer's return in order to support the credit shall be as stated in the forms or instructions. For taxable years ending prior to December 31, 2009, no credit shall be allowed under this Section for any tax paid to another state nor shall any item of income be included in base income subject to tax in that state except to the extent the amount of ~~thesuch~~ tax and income is evidenced by the following documentation attached to the taxpayer's return (or, in the case of an electronically-filed return, to the taxpayer's Form IL-8453, Illinois Individual Income Tax Electronic Filing Declaration), amended return or claim for refund:
- 1) Unless otherwise provided in this subsection (h), a taxpayer claiming the credit must attach a copy of the tax return filed for taxes paid to the other state or states to the taxpayer's Illinois income tax return, Form IL-8453, amended return or claim for refund.
 - 2) If the tax owed to the other state is satisfied by withholding of the tax from payments due to the taxpayer without the necessity of a return filing by the taxpayer, the taxpayer must attach a copy of the statement provided by the payor evidencing the amount of tax withheld and the amount of income subject to withholding.
 - 3) A taxpayer claiming a credit for taxes paid by a Subchapter S corporation or partnership on the taxpayer's behalf must attach a copy of the statement provided to the taxpayer by the Subchapter S corporation or partnership pursuant to subsection (g) ~~of this Section~~, showing the taxpayer's share of the taxes paid and the income of the taxpayer on which the taxes were paid.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

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SUBPART F: BASE INCOME OF INDIVIDUALS

Section 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

- a) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation. By virtue of the provisions of federal [laws cited in this Section](#) ~~law quoted in subsections (a)(1) through (4) below~~, compensation that would otherwise be subject to Illinois income taxation and withholding by virtue of IITA Sections 302(a) and 304(a)(2)(B) is subtracted from adjusted gross income in determining Illinois base income ~~(and is not subject to Illinois income tax withholding)~~ pursuant to IITA Section 203(a)(2)(N) ~~and is not subject to Illinois income tax withholding. This subtraction is taken on form IL-1040 on the line entitled "Other subtractions." The statutory basis of the subtraction under Illinois law is IITA Section 203(a)(2)(N)~~ which provides a subtraction from adjusted gross income for *an amount equal to all amounts included in [adjusted gross incomes](#) ~~such total~~ which are exempt from taxation by this State by reason of the ~~...~~ statutes of the United States.*
- 1) [Railroad Employees.](#) 49 [USC](#) [USCA](#) 11502(a) states that no part of the compensation paid by a rail carrier subject to the jurisdiction of the [Surface Transportation Board](#) ~~Interstate Commerce Commission under subchapter I of chapter 105 of this title~~ to an employee who performs regularly assigned duties as ~~such~~ an employee on a railroad in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.
 - 2) [Motor Carrier Employees.](#) 49 [USC](#) [USCA](#) 14503(a)(1) states that no part of the compensation paid by a motor carrier providing transportation subject to the jurisdiction of the [Surface Transportation Board](#) ~~Commission under subchapter I of chapter 135 of this title~~ or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more states as ~~such~~ an employee with respect to a motor vehicle shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.
 - 3) [Merchant Mariner Employees.](#) 46 [USC](#) [USCA](#) 11108 states that no part of

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the compensation paid by a merchant mariner to an employee who performs ~~his~~ regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision of the employee's residence.

- 4) Air Carrier Employees. 49 USC 40116(f)(2) states that no part of the compensation paid by an air carrier to an employee who performs ~~his~~ regularly assigned duties as ~~such~~ an employee on an aircraft in more than one state, shall be subject to the income tax laws of any state or subdivision thereof other than the state or subdivision ~~thereof~~ of ~~the~~ ~~such~~ employee's residence and the state or subdivision ~~thereof~~ in which the employee's scheduled flight time would have been more than 50% of the employee's total scheduled flight time for the calendar years such employee earns more than 50% of the compensation paid by the carrier to such employee.

b) Examples.

- 1) EXAMPLE 1. A is a locomotive engineer employed by Interstate railway. Interstate operates a rail yard in Illinois. Interstate also operates in Missouri, where it has a rail yard, as well as its administrative and payroll offices. A is a resident of Missouri. A is assigned to and primarily reports to the Illinois rail yard of Interstate and drives locomotives for Interstate on trips that go throughout the United States. However, on occasion, A is required to report to the Missouri rail yard of Interstate and drive locomotives on trips that originate in Missouri. Pursuant to 49 USC 11502(a), Interstate may only withhold the Missouri personal income tax on A's wages, and A is not subject to Illinois income tax on the wages paid by Interstate.
- 2) EXAMPLE 2. A is an airline pilot for World-Wide Airlines. World-Wide provides passenger and freight service to various destinations throughout the United States from an airport in Missouri, as well as from an airport in Illinois. A lives in Missouri, but A reports to and flies out of the World-Wide airport in Illinois. A primarily flies to destinations outside of Illinois. Less than 50% of A's compensation (as determined by flight time in Illinois versus flight time everywhere) is earned within Illinois. Therefore, A is only subject to Missouri income taxation on his or her compensation from World-Wide.

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- 3) EXAMPLE 3. The facts are the same as in Example 2, except that A pilots commuter planes between airports in Illinois. In this situation, A will be subject to Illinois income taxation by virtue of the fact that A earns more than 50% of his or her compensation within the State of Illinois.~~49 USCA 11108 provides that the State of Illinois may not require the withholding of Illinois income taxes from certain employees of water carriers and merchant mariners. 49 USCA 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the seaman. However, this provision of federal law does not affect the liability of these employees for Illinois income taxes, nor does it affect the obligation of such employees to make payments of estimated income taxes as required by IITA Section 803. The provision of federal law merely affects the authority of the State of Illinois to require withholding by employers of such employees.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART K: COMPENSATION

Section 100.3100 Compensation (IITA Section 302)

- a) General ~~Definition~~definition
Compensation is defined in IITA Section 1502(a)(3) to mean wages, salaries, commissions and any other form of remuneration paid to employees for personal services. The term is thus comparable to the term "wages" as used in IRC26 U.S.C. Section 3401(a), except that the exceptions set forth in the Code section are inapplicable for purposes of Article 3 of the Act. (See Section 100.7000 for definition of compensation subject to withholding.)
- b) Employee
Compensation is defined as remuneration for personal services performed by an "employee". If the employer-employee relationship does not exist, remuneration

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for services performed does not constitute "compensation." The term "employee" includes every individual performing services if the relationship between him or her and the person for whom he or she performs ~~thesuch~~ services is the legal relationship of employer and employee. The term has the same meaning under the Illinois Income Tax Act as under ~~IRC26 U.S.C.~~ Section 3401(c) and 26 CFR 31.3401(c)-1.

- c) Types of ~~Compensation~~compensation
The name by which remuneration for services is designated is immaterial. Thus, salaries, fees, bonuses, commissions on sales or on insurance premiums, and pensions and retired pay are compensation within the meaning of the statute if paid for services performed by an employee for his or her employer.
- d) Past ~~Services~~services
Remuneration for personal services constitutes compensation even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them, so long as ~~thesuch~~ relationship existed when the services were rendered.
- e) Duty days
~~Beginning with taxable years ending on or after December 31, 1992, for persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on persons who are members of professional sports teams that are residents of this State . . . in the case of persons who perform personal services under personal service contracts for sports performances, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State. (HTA Section 304(a)(2)(B)) Such income is compensation income and is allocated to Illinois under Section 100.3400 on the basis of duty days. Duty days are days during any part of which the person is under a duty to perform personal services under the terms of his or her personal services contract.~~
- 1) For players, total duty days shall include all days from the beginning of the official pre-season training period through the last game in which the player competes. If a player is involved in post-season games, duty days include all days through the last post-season game in which the player participates. Post-season games are any play-off games in which the player participates. Also included in post-season games are any all star

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~~games in which the player is chosen to participate.~~

- 2) ~~Duty days include off days, practice days and travel days. In the case of a travel day, only days in which the player, manager, coach and other full time traveling personnel spends at least 8 hours in this State will be considered a duty day. Duty days for any person who joins a team or leaves a team during the season shall begin or end on the day such person becomes a member of a team or ceases to be a member of a team.~~
- 3) ~~For trainers and other full time traveling employees, total duty days will include all days in the calendar year.~~
- 4) ~~Duty days in Illinois shall equal one (1) day for each duty day during any part of which the employee is physically present in Illinois.~~

ef) Examples

The standards set forth in this Section may be illustrated, in part, by the following examples:

- 1) EXAMPLE 1. A is a salesman for B corporation. B conducts a selling contest among its salesmen, first prize being a two-week vacation in Las Vegas. A is the winner of the contest and is awarded the vacation. The fair market value of the trip constitutes compensation.
- 2) EXAMPLE 2. C is employed by D corporation during the month of January 1970 and is entitled to receive remuneration of \$100 for services performed for D during ~~thesueh~~ month. C leaves the employ of D at the close of business on January 31, 1970. On February 15, 1970 (when C is no longer an employee of D), D pays C the remuneration of \$100 for services performed in January. The \$100 is compensation.
- 3) EXAMPLE 3. The facts are the same as in Example 2, subsection (f)(2) above except that C is discharged by D at the end of January. In addition to the \$100 earned by C for services performed in January, D pays C \$50 severance pay. The \$50 constitutes compensation.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

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

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- a) Compensation Paid in This State – General Rule~~In general~~
- 1) In order for items of compensation paid to an individual who is a nonresident of Illinois at the time of payment to be allocated to Illinois, ~~thesuch~~ compensation must constitute "compensation paid in this State". If the test is met, then all items of ~~thesuch~~ compensation, and all items of deduction directly allocable thereto, are allocated to Illinois under IITA Section 302(a) (except items allocated under IITA Section ~~301(c)(2)301(b)(2)~~, as to which see subsection (d)~~(e) below~~). Compensation paid to a nonresident, which is allocated to Illinois, enters into the computation of ~~thesuch~~ individual's net income under IITA Section 202 and is generally subject to withholding under IITA Section 701 (see Sections 100.7000, 100.7010 and 100.7020). The tests for determining whether compensation is paid in Illinois appear in IITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment" in the Illinois Unemployment ~~Insurance Compensation~~ Act [820 ILCS 405] (and similar unemployment compensation acts of other states). Except as provided in this Section, compensation~~Compensation~~ is paid in Illinois if:
- A) The individual's service is localized in Illinois because it is performed entirely within Illinois (IITA Section 304(a)(2)(B)(i));
- B) The individual's service is localized in Illinois although it is performed both within and without Illinois, because the service performed without Illinois is incidental to the individual's service performed within Illinois (IITA Section 304(a)(2)(B)(ii)); or
- C) For taxable years ending prior to December 31, 2020, the~~The~~ individual's service is not localized in any state under subsections (a)(1)(A) and (B), but some of the service is performed within Illinois and either:
- i) the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within Illinois, or
- ii) the base of operations or the place from which the service

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is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in Illinois. (IITA Section 304(a)(2)(B)(iii))

- D2) ~~The foregoing rules in subsections (a)(1)(A) through (C) are to be applied in asuch manner so that, if they were in effect in other states, an item of compensation would constitute compensation "paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in thatsuch other state under subsection (a)(1)(B) ~~above~~, it could not also be compensation paid in Illinois. Pursuant to 50 USC 574, compensation for military or naval service paid to a nonresident does not constitute "compensation paid in" Illinois even though it meets the tests set forth in subsection (a)(1) above. For further discussion of these tests, see Section 100.7010(a), (d), (e) and (f), dealing with withholding.~~
- E) For taxable years ending on or after December 31, 2020, the individual's service is not localized in any state under subsections (a)(1)(A) or (B), but some of the individual's service is performed within this State and the individual's service is performed within this State for more than 30 working days during the taxable year, the amount of compensation paid in this State shall include the portion of the individual's total compensation for services performed on behalf of his or her employer during the taxable year which the number of working days spent within this State during the taxable year bears to the total number of working days spent both within and without this State during the taxable year. (IITA Section 304(a)(2)(B)(iii)) For purposes of this subsection:
- i) "Working day" means each day during the taxable year in which the individual performs duties on behalf of his or her employer. All days in which the individual performs no duties on behalf of his or her employer (e.g., weekends, vacation days, sick days, holidays) are not working days. (IITA Section 304(a)(2)(B)(iii)(a))
- ii) A working day is "spent within this State" if:

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- *the individual performs service on behalf of the employer and a greater amount of time on that day is spent by the individual performing duties on behalf of the employer within this State, without regard to time spent traveling, than is spent performing duties on behalf of the employer without this State; or*
 - *the only service the individual performs on behalf of the employer on that day is traveling to a destination within this State, and the individual arrives on that day. (IITA Section 304(a)(2)(B)(iii)(b))*
- iii) Working days "spent within this State" do not include any day in which the employee is performing services in this State during a disaster period solely in response to a request made to his or her employer by the government of this State, by any political subdivision of this State, or by a person conducting business in this State to perform disaster or emergency-related services in this State. (IITA Section 304(a)(2)(B)(iii)(c)) For purposes of this subsection (a)(1)(E)(iii):
- "Declared State disaster or emergency" means a disaster or emergency event for which a Governor's proclamation of a state of emergency has been issued or for which a Presidential declaration of a federal major disaster or emergency has been issued.
 - "Disaster period" means a period that begins 10 days prior to the date of the Governor's proclamation or the President's declaration (whichever is earlier) and extends for a period of 60 calendar days after the end of the declared disaster or emergency period.

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- "Disaster or emergency-related services" means repairing, renovating, installing, building, or rendering services or conducting other business activities that relate to infrastructure that has been damaged, impaired, or destroyed by the declared State disaster or emergency.
- "Infrastructure" means property and equipment owned or used by a public utility, communications network, broadband and internet service provider, cable and video service provider, electric or gas distribution system, or water pipeline that provides service to more than one customer or person, including related support facilities. "Infrastructure" includes, but is not limited to, real and personal property such as buildings, offices, power lines, cable lines, poles, communications lines, pipes, structures, and equipment. (IITA Section 304(a)(2)(B)(iii)(c))

2) Localization Tests

- A) If compensation is paid in this State because the service is localized in this State under either of the tests set forth in subsections (a)(1)(A) or (B), the factors in subsections (a)(1)(C) and (D) are not considered. In those cases, the place of the base of operations, the place from which the service is directed or controlled and the number of working days spent in any state are irrelevant.
- B) In determining whether an individual's service performed without this State is incidental to the service performed within this State for purposes of the test set forth in subsection (a)(1)(B), the term "incidental" means any service which is necessary to or supportive of the primary service performed by the employee or which is temporary or transitory in nature or consists of isolated transactions. The incidental service may or may not be similar to the individual's normal occupation so long as it is performed within the same employer-employee relationship. That is, an

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individual who normally performs all of his or her service in this State may be sent by the employer to another state to perform service which is totally different in nature from his or her usual work, or he or she may be sent to do similar work. So long as the service is temporary or consists merely of isolated transactions, it will be considered to be incidental to the service performed within this State, and the employee's entire compensation will be subject to withholding.

- C) In some cases, it may be difficult to determine whether service performed in another state is incidental to service performed within this State. In those cases, the facts (including any contract of employment) should be carefully considered. In many instances, the contract of employment will provide a definite territorial assignment which will be prima facie evidence that the service is localized within that territory. However, the presence or absence of a contract of employment is but one fact to be considered. In every case, the ultimate determination to be made is whether the individual's service was intended to be and was in fact principally performed within this State and whether any service which was performed in another state was of a temporary or transitory nature or arose out of special circumstances at infrequent intervals. The amount of time spent or the amount of service performed without this State should not be regarded as decisive, in itself, in determining whether that service is incidental to service performed within this State. For example, an individual normally performing service within this State might be sent on a special assignment to another state for a period of months. The service in the other state would nevertheless be incidental to service within this State if that special assignment were an isolated transaction.

- D) This subsection may be illustrated by the following examples:

- i) EXAMPLE 1. A is a resident of State X and a salesman for the B Corporation, located in State X. A's territory covers the northern part of Illinois. Sporadically, A is requested by B corporation to call on particular customers who are located in State X. The compensation for service which A performs in Illinois and State X is paid in Illinois because

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the service performed in State X is incidental to the service performed in Illinois, since it consists of isolated transactions.

- ii) EXAMPLE 2. The facts are the same as in Example 1 except that A's regular territory covers several counties in Illinois and one or two towns in State X. A goes to the State X towns on a regular basis even though more than 95% of A's time spent and sales made are in Illinois. The compensation for service which A performs in Illinois and State X is not localized in Illinois under the provisions of subsection (a)(1)(B) because the service performed in State X is regular and permanent in nature and is not necessary to or supportive of sales made in Illinois.
- iii) EXAMPLE 3. A works for B construction company in Chicago. Occasionally the company obtains a construction job in State X which may last from one to several weeks. A is sent by the company to supervise the construction jobs in State X. The compensation for the service A performs in Illinois and State X is paid in Illinois because the service performed in State X, being temporary in nature, is incidental to the service which performed in Illinois.
- iv) EXAMPLE 4. A is a resident of Illinois and a buyer for a department store located in State X. Regular buying trips by A to Illinois are incidental to the service performed in State X because they are necessary to and supportive of A's primary duties which are localized in State X and not in Illinois. A's compensation is not paid in Illinois under the provisions of subsection (a)(1)(B).

3) Base of Operations

- A) For taxable years ending prior to December 31, 2020, if the localization tests in subsections (a)(1)(A) or (B) are not determinative of the issue of whether compensation is paid in this State and the individual's base of operations is within this State, his or her entire compensation is paid in Illinois. However, if his or her

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base of operations is without this State, none of his or her compensation is paid in this State. (IITA Section 304(a)(2)(B)(iii))

- B) The term "base of operations" refers to the place or fixed center from which the individual works. An individual's base of operations may be his or her business office (which may be maintained in the employee's home), or the contract of employment may specify a place at which the employee is to receive directions and instructions. In the absence of more controlling factors, an individual's base of operations may be the place to which the employee has his or her business mail, supplies, and equipment sent or the place where the employee maintains his or her business records. An employee's base of operations may change during a tax year, but only if there is a change in the employee's circumstances that is expected to be permanent. The base of operations does not change when the employee is temporarily assigned to work at a different location.
- C) This section may be illustrated by the following examples:
- i) EXAMPLE 1. A is a salesman for the B corporation located in Chicago. A's territory includes Illinois, State X and State Y. A uses the corporation office in Chicago as a base of operations. The compensation for service performed by A is paid in Illinois because the service is not localized in any of the three States in which it is performed, but part of the service is performed in Illinois and A's base of operations is in Illinois.
- ii) EXAMPLE 2. A is a salesman for the B corporation located in Chicago. A lives in State X and A's territory includes State X and part of Cook County, Illinois. A starts his or her sales calls from and returns to his or her home daily. A keeps a catalogue and copies of correspondence from customers at his or her home, and writes his or her sales reports there. About once a week, A reports to B's sales office in Chicago for consultation with and directions from the sales manager. Communications from customers to A are addressed to the Chicago sales office. A's letters to

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customers are on letterheads bearing the Chicago sales office address and are sometimes typed by A at home and sometimes dictated by him or her to a stenographer when he or she is in the Chicago sales office. Correspondence to A and A's paychecks are sometimes picked up by A in Chicago and otherwise are forwarded by the sales office to A's home. The duties which A performs at home are sufficient to make his or her home the base of operations. A's compensation is therefore not paid in Illinois because A's base of operations is in State X, and part of A's service is performed in that state.

- iii) EXAMPLE 3. A, a resident of Illinois, sells products in Illinois, State X and State Y for B corporation, which is located in State Z. A operates from his or her home, where he or she receives instructions from B corporation, communications from customers, etc. Once a year, A goes to State Z for a 10 day sales meeting. All of A's compensation is paid in Illinois because the service is not localized in any state, but part of the service is performed in Illinois and A's base of operations is A's home in Illinois.
- iv) EXAMPLE 4. A works for a company whose home office is in State X. A is a regional director working out of a branch office in Illinois. A works mostly in Illinois but spends considerable time in State X. A's base of operations is the branch office in Illinois. Since A performs some service in Illinois and his base of operations is in Illinois, it is immaterial that A's source of direction and control is in State X. All of A's compensation for service is paid in Illinois.
- v) EXAMPLE 5. A, a resident of Illinois, is a salesman for the B corporation, which has its main office in State X. A works out of the main office and A's territory is divided equally between State X and Illinois. A's compensation is not paid in Illinois because A's base of operations is in State X, and part of A's service is performed in that State.

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vi) EXAMPLE 6. B, an Indiana resident, is a certified public accountant based in her employer's Chicago office. B is regularly sent to perform auditing services at clients' offices outside Illinois, often for periods of weeks or months. Some of her assignments are recurring, requiring her to perform services at the same client's office for some period or periods every year. B's base of operations is in Illinois, and does not change with any of these temporary assignments.

4) Place of Direction or Control

A) For taxable years ending prior to December 31, 2020, if the localization tests in subsections (a)(1)(A) or (B) are not determinative of the issue of whether compensation is paid in this State and the individual has no base of operations or the individual performs no services in the state in which his or her base of operations is located, the permanent place from which an employee's service is directed or controlled is relevant in determining whether the employee's wages are paid in Illinois. In those cases, if the place from which the individual's service is directed or controlled is within this State, and some of the employee's services are performed within this State, then the employee's entire compensation will be paid in Illinois. (See IITA Section 304(a)(2)(B)(iii).) For example, a salesman's territory may be so indefinite and so widespread that the employee will not retain any fixed business office or address but will receive orders or instructions wherever he or she may happen to be. In that case, the location of the permanent place from which direction and control is exercised must be determined, and the employee's compensation will be paid in Illinois if the place of direction and control is in Illinois and the employee performs some services in Illinois.

B) This subsection may be illustrated by the following examples:

i) EXAMPLE 1. A, a resident of State X, is employed as a salesman by B, a corporation with its main office in State Y. B has a permanent branch office and sales supervisor in

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Cairo, Illinois. A was hired by the branch office and sells merchandise for B in Illinois and other neighboring states as directed by the branch office in telephone calls, but A has no place which is used as a base of operations. All of the compensation for service performed by A for B is paid in Illinois because A's service is not localized in any state and A has no base of operations, but part of A's service is performed in Illinois and the place from which the service is directed is in Illinois.

- ii) EXAMPLE 2. A is a salesman residing in State X, who works for a concern whose factory and selling office is in Chicago, Illinois. A's territory covers five states, including Illinois. A does not report, start from or return to the Chicago office, and does not work from his or her residence in State X. State X is the territory of another salesman. A does not have a base of operations, and his or her compensation is paid in Illinois since part of A's service is performed in Illinois and the place from which the service is directed is in Illinois.
- iii) EXAMPLE 3. A, a contractor whose main office is in Illinois, is regularly engaged in road construction work in Illinois and State X. All operations are under direction of a general superintendent whose permanent office is in Illinois. Work in each state is directly supervised by field supervisors working from temporary field offices located in each of the two states. Each field supervisor has the power to hire and fire personnel; however, all requests for manpower must be cleared through the Illinois office. Employees report for work at the field offices. Time cards are sent weekly to the main office in Illinois where the payrolls are prepared. A is hired by a field supervisor in State X; and regularly performs service in both Illinois and State X. In this case, neither the localization nor the base-of-operations test would apply, but A's compensation would be paid in Illinois because part of A's service is performed in Illinois and the place of direction or control is

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in Illinois because the permanent office from which basic direction and control emanates is the Illinois office.

5) When Residence Is Important

- A) For taxable years ending prior to December 31, 2020, residence is a factor in determining whether compensation of an employee is paid in Illinois only when the localization tests in subsections (a)(1)(A) or (B) are not determinative of the issue of whether compensation is paid in this State and the individual has no base of operations or the individual performs no services in the state in which his or her base of operations is located, and the employee performs no service in the state from which his or her service is directed or controlled. In these cases, if the individual is a resident of this State, and some of his or her service is performed within this State, the employee's entire compensation will be paid in this State. (See IITA Section 304(a)(2)(B)(iii).)

EXAMPLE: A is a salesman employed by the B company located in State X. A's services are directed and controlled from the State X office and A has no base of operations. A lives in Illinois but A's territory includes State Y and State Z as well as Illinois. For taxable years ending prior to December 31, 2020, all of A's wages are paid in Illinois because no part of his service is performed in the state (State X) in which the place from which A's services are directed is located, but part of A's service is performed in Illinois and A's residence is in Illinois.

- B) For all taxable years, residence is also important in determining the Illinois income tax obligations of certain employees of railroads, motor carriers, merchant marine and air carriers. (See Section 100.2590.)

~~3) Personal services under personal service contracts for sports performance~~

- ~~A) For purposes of subsection (a)(1)(A) above, beginning with taxable years ending on or after December 31, 1992, for all persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on all persons who are~~

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~~members of professional sports teams that are residents of this State...in the case of persons who perform personal services under personal service contracts for sports performance, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State. (HTA Section 304(a)(2)(B)) The amount of income constituting compensation paid in this State to such person shall be determined by multiplying the person's total compensation for performing such personal services by a fraction, the denominator of which contains the total number of duty days and the numerator of which is the number of duty days in Illinois during the taxable year.~~

- ~~B) The income of persons who engage in sports performance in Illinois, but do not perform personal services under personal services contracts of employment, remains apportionable to Illinois. Such income is business income, as defined by HTA Section 1501(a)(1) and Section 100.3010(a) of this Part. Also see HTA Section 304(a) and Section 100.3310 of this Part.~~

b) Compensation Paid in This State – Nonresident Members of Professional Athletic Teams

- 1) Notwithstanding the provisions of subsection (a), compensation of a nonresident individual who is a member of a professional athletic team paid in this State includes *the portion of the individual's total compensation for services performed as a member of a professional athletic team during the taxable year which the number of duty days spent within this State performing services for the team in any manner during the taxable year bears to the total number of duty days spent both within and without this State during the taxable year.* (HTA Section 304(a)(2)(B)(iv)(a))
- 2) For purposes of this subsection:
- A) "Professional athletic team" includes, but is not limited to, *any professional baseball, basketball, football, soccer, or hockey team.* (HTA Section 304(a)(2)(B)(iv)(c)(1))

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- B) "Member of a professional athletic team" includes those employees who are active players, players on the disabled list, and any other persons required to travel and who travel with and perform services on behalf of a professional athletic team on a regular basis. This includes, but is not limited to, coaches, managers, and trainers. (IITA Section 304(a)(2)(B)(iv)(c)(2))
- C) "Duty days" means all days during the taxable year from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete. Duty days are counted for the year in which they occur, including instances in which a team's official pre-season training period through the last game in which the team competes or is scheduled to compete, occurs during more than one tax year. (IITA Section 304(a)(2)(B)(iv)(c)(3))
- i) "Duty days" includes days on which a member of a professional athletic team performs service for a team on a date that does not fall within the period from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete (e.g., participation in instructional leagues, the "All Star Game", promotional "caravans"). Performing a service for a professional athletic team includes conducting training and rehabilitation activities, when those activities are conducted at team facilities. (IITA Section 304(a)(2)(B)(iv)(c)(3)(A))
- ii) "Duty days" includes game days, practice days, days spent at team meetings, promotional caravans, preseason training camps, and days served with the team through all post-season games in which the team competes or is scheduled to compete. (IITA Section 304(a)(2)(B)(iv)(c)(3)(B))
- iii) "Duty days" for any person who joins a team during the period from the beginning of the professional athletic team's official pre-season training period through the last

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game in which the team competes, or is scheduled to compete, begins on the day that person joins the team. Conversely, "duty days" for any person who leaves a team during this period ends on the day that person leaves the team. Where a person switches teams during a taxable year, a separate duty-day calculation is made for each period the person was with each team. (IITA Section 304(a)(2)(B)(iv)(c)(3)(C)) For purposes of this provision, "team" means the employer, so that if a single employer operates more than one club, a player who is transferred from one of the employer's clubs to another is not leaving or joining a team.

- iv) "Duty days" does not include any day for which a member of a professional athletic team is not compensated and is not performing services for the team in any manner, including days when that member has been suspended without pay and prohibited from performing any services for the team. (IITA Section 304(a)(2)(B)(iv)(c)(3)(D))
 - v) Days for which a member of a professional athletic team is on the disabled list and does not conduct rehabilitation activities at facilities of the team, and is not otherwise performing services for the team in Illinois, are not duty days spent in this State. All days on the disabled list, however, are considered to be included in total duty days spent both within and without this State. (IITA Section 304(a)(2)(B)(iv)(c)(3)(E))
 - vi) Travel days that do not involve either a game, practice, team meeting, or other similar team event are not considered duty days spent in this State. However, travel days are considered in the total duty days spent both within and without this State. (IITA Section 304(a)(2)(B)(iv)(b))
- D) "Total compensation for services performed as a member of a professional athletic team" means the total compensation received during the taxable year for services performed:

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- i) from the beginning of the official pre-season training period through the last game in which the team competes or is scheduled to compete during that taxable year; (IITA Section 304(a)(2)(B)(iv)(c)(4)(A)) and
 - ii) during the taxable year on a date which does not fall within the foregoing period (e.g., participation in instructional leagues, the "All Star Game", promotional caravans). This compensation includes, but is not limited to, salaries, wages, bonuses, and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year. (IITA Section 304(a)(2)(B)(iv)(c)(4)(B))
 - iii) For purposes of this subsection (b)(2)(D), compensation does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services performed for the team. (IITA Section 304(a)(2)(B)(iv)(c))
 - iv) For purposes of this subsection (b)(2)(D), "bonuses" included in "total compensation for services performed as a member of a professional athletic team" subject to the allocation under this subsection (b)(2)(D) are: bonuses earned as a result of play (e.g., performance bonuses) during the season, including bonuses paid for championship, playoff or "bowl" games played by a team, or for selection to all-star or other honorary positions; and bonuses paid for signing a contract, unless the payment of the signing bonus is not conditional upon the signee playing any games for the team or performing any subsequent services for the team or even making the team, payable separately from the salary and any other compensation, and nonrefundable. (IITA Section 304(a)(2)(B)(iv)(c))
- c) Compensation Paid for Past Service

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- 1) A federal law, P.L. 104-95 (4 USC 114), which applies to amounts received after December 31, 1995, limits the power of states to impose income taxation on certain nonresident pension income. This limitation also impacts income received by a nonresident in the form of distributions from many deferred compensation plans. The allocation of distributions to nonresidents from deferred compensation plans which are not governed by that law and which are potentially income taxable in this State is governed by this subsection (cb)(1). ~~For Where compensation is paid to a nonresident for past service, such compensation will, for~~ the purpose of determining whether and to what extent ~~such~~ compensation paid for past service is "paid in" Illinois and is allocated to Illinois under IITA Section 302(a), that compensation is ~~be~~ presumed to have been earned ratably over the employee's last 5 years of service with the employer (or any predecessor or successor of the employer or a parent or subsidiary corporation of the employer), in the absence of clear and convincing evidence that ~~thesuch~~ compensation is properly attributable to a different period of employment or that it was not earned ratably over the appropriate period of employment. Compensation earned in each past year will be deemed compensation paid in Illinois if the individual's service in ~~thatsuch~~ year met the tests set forth in subsection (a) ~~above~~. Compensation paid for past service includes amounts paid under deferred compensation agreements where the amount of compensation is unrelated to the amount of service being currently rendered. Amounts paid to nonresidents under deferred compensation agreements ~~aremay be~~ allocated to Illinois under IITA Section 302(a) in accordance with this paragraph notwithstanding the fact that amounts paid to nonresidents ~~are exempted fromunder such agreements will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will not be subject to~~ withholding ~~under(see~~ Section 100.7010(g)).
- 2) The standards detailed in the previous subsection may be illustrated by the following examples:
 - A) EXAMPLE 1. A is a union member employed by B corporation as a factory worker. During the years 1965-1968, A was employed in B's factory in Illinois; in 1969, A worked in B's factory in State X. In 1970, as a result of union labor contract negotiations, A received a lump-sum payment of \$500 in lieu of a retroactive wage increase. A is at all times a resident of State X. Unless A establishes, by

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clear and convincing evidence, facts to support a different result, \$100 is deemed to have been earned in each of the 5 years 1965-1969. Further, \$400 is deemed to have been earned by service localized in Illinois and \$100 by service localized in State X (see subsection (a) above). Therefore, \$400 is allocable to Illinois under IITA Section 302(a).

- B) EXAMPLE 2. The facts are the same as in Example 1, ~~the previous example~~ except that A is able to establish that the \$500 constituted a wage increase retroactive to July 1, 1969. In ~~this such~~ case, no part of the \$500 is allocable to Illinois, since it was earned by service in 1969 localized in State X.
- C) EXAMPLE 3. C is a corporate executive. On January 1, 1965, C entered into an agreement with D corporation under which he was to be employed by D in an executive capacity for a period of 5 years. Under the contract C is entitled to a stated annual salary and to additional compensation of \$10,000 for each year, the additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of \$5,000 on C's retirement beginning January 1, 1970. In the event of C's death prior to exhaustion of the account, the balance is to be paid to C's personal representative. C is required to render consultative services to D when called upon after December 31, 1969. During 1970, C is paid \$5,000 while a resident of Florida. The \$5,000 is deemed to have been earned at the rate of \$1,000 in each of the years 1965-1969, since the amount paid is unrelated to C's current consultative services. Whether the \$1,000 earned in each ~~such~~ year is allocable to Illinois under IITA Section 302(a) must be determined by applying the tests set forth in subsection (a) ~~above~~ to ~~that each such~~ year.

de) Exceptions to General Allocation Rules ~~general allocation rules~~

- 1) While "compensation" may include items of income taken into account by a nonresident employee under the provisions of IRC Sections 26 USC 401 through 425424, such as, for example, amounts received by a beneficiary of an employees' trust (taxable to the employee under IRC Section 26 USC 402, whether the trust is exempt or non-exempt from federal income tax),

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or income resulting from a disqualifying disposition of stock acquired pursuant to the exercise of a qualified stock option (taxable to the employee under IRC Section 26 USC 421(b)), ~~such compensation is not allocated under IITA Section 302(a). Such compensation is allocated under the express provision rules of IITA Section 301(c)(2)(A), that compensation 301(b)(2)(A), i.e., is not allocated to Illinois, whereas compensation which is allocated pursuant to IITA Section 302(a) is allocated to Illinois, if "paid in" this State (see subsections (a) and (b) above).~~ Consequently, a nonresident claiming that compensation which would otherwise constitute compensation paid in Illinois ~~is should not be~~ allocated to Illinois under IITA Section ~~301(c)(2)(A) 301(b)(2)(A)~~ must establish that ~~the such~~ compensation was properly taken into account by ~~the such~~ individual under the provisions of IRC Sections 26 USC 401 through 425424.

2) Reciprocal Exemption exemptions

In any case in which the Director has entered into an agreement with the taxing authorities of another state which imposes a tax on or measured by income to provide that compensation paid in ~~that such~~ state to residents of Illinois ~~is shall be~~ exempt from ~~that state's such~~ tax, compensation paid in Illinois to residents of ~~that such~~ state will not be allocated to Illinois.

3) Employees Engaged in Interstate Transportation Federal Law. Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation, even though in the absence of specific federal provisions those employees would be subject to Illinois taxation by virtue of IITA Section 302(a). (See Section 100.2590.) Compensation that Illinois may not tax under those provisions is not "paid in this State" under this Section.

A) ~~Railroad employees. 49 USCA 11502(a) provides that no part of the compensation paid by a rail carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of the chapter 105 of Title 49, to an employee who performs regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.~~

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- B) ~~Motor carrier employees. 49 USCA 14503(a)(1) states that no part of the compensation paid by a motor carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 135 of Title 49, or by a motor private carrier, to an employee who performs regularly assigned duties in 2 or more states as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.~~
- C) ~~Merchant mariner employees. 46 USCA 11108 provides that no part of the compensation paid by a merchant mariner to an employee who performs his regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision of the employee's residence.~~
- D) ~~Air carrier employees. 49 USCA 40116(f)(2) states that no part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one state shall be subject to the income tax laws of any state or subdivision thereof other than the state or subdivision thereof of such employee's residence and the state or subdivision thereof in which such employee earns more than 50% of the compensation paid by the carrier to such employee.~~
- 4) Military Servicemembers and Spouses of Servicemembers. Pursuant to 50 USC 4001, compensation for military service paid to a nonresident servicemember and compensation paid to a servicemember's spouse, if the spouse is not a resident of Illinois and is in Illinois solely to be with the servicemember serving in compliance with military orders, do not constitute "compensation paid in" Illinois even though it meets the tests set forth in this subsection (d). The standards set forth in this Section may be illustrated by the following examples:
- A) ~~A is a factory worker for B corporation which is located in Illinois. A resides in State X. When A reaches retirement age, he begins receiving a pension from the exempt trust under B's qualified pension plan. For federal income tax purposes, A properly takes~~

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~~his payments into account under the provisions of 26 USC 402(a). Accordingly, under HTA Section 301(c)(2)(A), A's payments are not allocated to Illinois.~~

- B) ~~The facts are the same as in the previous example except that B corporation does not fund its employees' pension benefits through the creation of a trust or the purchase of annuities, but pays retired employees each year out of corporate funds. For federal income tax purposes, A is required to take his payments into account under 26 USC 61(a), rather than under 26 USC 401 through 424. Accordingly, allocation of A's pension payments is governed by HTA Section 302(a) above (see subsections (a) and (b) of this Section).~~
- C) ~~A is a locomotive engineer employed by Interstate railway. Interstate operates a rail yard in East St. Louis, Illinois. Interstate also operates out of St. Louis, Missouri, where it has a rail yard, as well as its administrative and payroll offices. A lives in St. Louis, Missouri. A is assigned to the East St. Louis rail yard and primarily reports to the East St. Louis rail yard of Interstate and drives locomotives for Interstate on trips that go throughout the United States. However, on occasion, A is required to report to the St. Louis, Missouri yard of Interstate and drive locomotives on trips that originate from St. Louis, Missouri. Pursuant to 49 USCA 111502(a), Interstate may only withhold, and A is only subject to, the Missouri personal income tax.~~
- D) ~~A is an airline pilot for World Wide Airlines. World Wide provides passenger and freight service to various destinations throughout the United States from Lambert Field in St. Louis, Missouri, as well as from the municipal airport in Alton, Illinois. A lives in St. Louis, Missouri, but A reports to and flies out of the World Wide terminal in Alton, Illinois. A primarily flies to destinations outside of Illinois. Less than 50% of A's compensation (as determined by flight time in Illinois versus flight time everywhere) (see 49 USCA 1512(b)) is earned within Illinois. Therefore, by virtue of 49 USCA 1513(a), A is only subject to Missouri income taxation on his compensation from World Wide.~~

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- E) ~~The facts are the same as in the previous example, except that A pilots commuter planes between Alton and Chicago, Illinois. In this situation, A will be subject to Illinois income taxation by virtue of the fact that A earns more than 50% of his compensation within the State of Illinois.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART S: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section 100.7010 Compensation Paid in this State (IITA Section 701)

- a) Except as provided in this Section, or in Section 100.7090 with respect to reciprocal withholding exemption agreements for employees residing in certain states, withholding is required with respect to "compensation paid in this State" under Section 100.3120. ~~General rules~~
- 1) ~~Withholding is required with respect to "compensation paid in this State" —except as provided in reciprocal withholding exemption agreements for employees residing in certain states. (See Section 100.7090.) Illinois will recognize reciprocal withholding exemption agreements for those members of professional sports teams whose compensation is "paid in this State" under Section 100.3100(e), to the extent that the state of residence of the team by which they are employed recognizes the reciprocal withholding exemption agreement with respect to individuals employed by teams with Illinois residence. The entire amount of such compensation is subject to withholding if withholding is required under Section 100.7000. The tests for determining whether compensation is paid in this State appear in IITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment" in the Illinois Unemployment Compensation Act [820 ILCS 405] (and similar unemployment compensation acts of other states). Compensation is paid in this State if:~~
- A) ~~The individual's service is localized in this State because it is performed entirely within this State;~~
- B) ~~The individual's service is localized in this State although it is performed both within and without this State, because the service performed without this State is incidental to the individual's service~~

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~~performed within this State; or~~

- C) ~~The individual's service is not localized in any state but some of the service is performed within this State and either; the base of operations, or if there is not a base of operations, the place from which the service is directed or controlled is within this State, or the base of operations of the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.~~
- 2) ~~For purposes of subsection (a)(1)(A), beginning with taxable years ending on or after December 31, 1992, for all persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on all persons who are members of professional sports teams that are residents of this State, ..., in the case of persons who perform personal services under personal service contracts for sports performances, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State. (ITA Section 304(a)(2)(B))~~
- 3) ~~The foregoing rules are to be applied in such manner that, if they were in effect in other states, an item of compensation would constitute "compensation paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in such other state under the test of subsection (a)(1)(A), it could not also be compensation paid in Illinois.~~
- b) Withholding from Nonresident Employees. For taxable years beginning on or after January 1, 2020, in determining compensation paid in this State under IITA Section 304(a)(2)(B) for purposes of this Section: Place of residence of employee
- 1) If an employer maintains a time and attendance system that tracks where employees perform services on a daily basis, then data from the time and attendance system shall be used. (ITA Section 701(a-5)(1)) For purposes of this subsection (b)(1), "time and attendance system" means a system:
- A) in which the employee is required, on a contemporaneous basis, to record the work location for every day worked outside of the State

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where the employment duties are primarily performed; (IITA Section 701(a-5)(1)(A)) and

B) that is designed to allow the employer to allocate the employee's wages for income tax purposes among all states in which the employee performs services. (IITA Section 701(a-5)(1)(B))

- 2) In all other cases, the employer shall obtain a written statement from the employee of the number of days reasonably expected to be spent performing services in this State during the taxable year. Absent the employer's actual knowledge of fraud or gross negligence by the employee in making the determination or collusion between the employer and the employee to evade tax, the certification made by the employee and maintained in the employer's books and records shall be prima facie evidence and constitute a rebuttable presumption of the number of days spent performing services in this State. (IITA Section 701(a-5)(2))
- 3) The provisions of this subsection (b) are relevant only to the issue of whether or not the employer has withheld the proper amount of Illinois income tax from the compensation of an employee. The amount of an employee's compensation "paid in this State" for all other purposes must be determined by using the actual working days within and without this State.
- 1) In general, except in the limited circumstances referred to in subsection (a)(1)(C) and subsections (b)(2) and (3), the place of residence of any employee is irrelevant to the determination of "compensation paid in this State", and, therefore, whether withholding is required with respect to such employee. However, compensation paid to residents that would not otherwise be considered "compensation paid in this State" applying the definition in IITA Section 304(a)(2)(B) may be deemed "compensation paid in this State" under IITA Section 701(b) and therefore be subject to withholding in accordance with Section 100.7030 of this Part. In addition, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) and that would be considered "compensation paid in this State" applying the rules of IITA Section 304(a)(2)(B) is exempt from withholding.
- 2) Federal law affects the authority of the State of Illinois to subject certain

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~~employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation and withholding. See Section 100.2590 which provides that certain employees of rail carriers, motor carriers, merchant mariners, and air carriers may only be subject to the income tax laws of any state or subdivision of that state of the employee's residence.~~

- 3) ~~Federal law also affects the authority of the State to withhold income tax from employees of certain water carriers and merchant mariners. 49 USCA 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the seaman. It should be noted that this provision affects only the authority of this state to have Illinois income tax withheld from wages of these employees. It does not affect the obligation of these employees to pay Illinois income taxes or to make payments of estimated income taxes as required under IITA Section 803.~~

e) Localization tests

- 1) ~~If compensation is paid in this State because the service is localized here under either of the tests set forth in subsections (a)(1)(A) and (B), no other factors need be considered. In such cases, the place of the base of operations, the place from which the service is directed or controlled, and the place of the individual's residence are all irrelevant. (But see Section 100.7090.)~~
- 2) ~~In determining whether an individual's service performed without this State is incidental to his service performed within this State for purposes of the test set forth in subsection (a)(1)(B), the term "incidental" means any service which is necessary to or supportive of the primary service performed by the employee or which is temporary or transitory in nature or consists of isolated transactions. The incidental service referred to above may or may not be similar to the individual's normal occupation so long as it is performed within the same employer-employee relationship. That is, an individual who normally performs all of his service in this State~~

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~~may be sent by his employer to another state to perform service which is totally different in nature from his usual work or he may be sent to do similar work. So long as such service is temporary or consists merely of isolated transactions, it will be considered to be incidental to his service performed within this State, and his entire compensation will be subject to withholding.~~

- 3) ~~In some cases, it may be difficult to determine whether service performed in another state is incidental to service performed within this State. In any such case, the facts (including any contract of employment) should be carefully considered. In many instances, the contract of employment will provide a definite territorial assignment which will be prima facie evidence that the service is localized within such territory. However, the presence or absence of a contract of employment is but one fact to be considered. In every case, the ultimate determination to be made is whether the individual's service was intended to be and was in fact principally performed within this State and whether any service which was performed in another state was of a temporary or transitory nature or arose out of special circumstances at infrequent intervals. The amount of time spent or the amount of service performed without this State should not be regarded as decisive, in itself, in determining whether such service is incidental to service performed within this State. For example, an individual normally performing service within this State might be sent on a special assignment to another state for a period of months. The service in the other state would nevertheless be incidental to service within this State if such special assignment were an isolated transaction.~~
- 4) ~~This Section may be illustrated by the following examples:~~
- A) ~~A is a resident of State X and is a salesman for the B corporation, located in State Y. A's base of operations is his home in State X and his service is controlled from State Y. All of A's customers are located in Illinois. A's compensation is subject to withholding even though he is a nonresident with a State X base of operations, who is directed from State Y, because all of his service is performed in Illinois.~~
- B) ~~A is a resident of State X and a salesman for the B Corporation, located in State X. A's territory covers the northern part of Illinois.~~

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~~Sporadically, A is requested by B corporation to call on particular customers who are located in State X. The compensation for service which A performs in Illinois and State X is subject to withholding because the service performed in State X is incidental to the service performed in Illinois, since it consists of isolated transactions.~~

- ~~C) The facts are the same as in the previous example except that A's regular territory covers several counties in Illinois and one or two towns in State X. A goes to the State X towns on a regular basis even though more than 95% of his time and sales are with reference to his Illinois territory. The compensation for service which A performs in Illinois and State X is not localized in Illinois within the meaning of subsection (a)(2) because the service performed in State X is regular and permanent in nature and is not necessary to or supportive of sales made in Illinois. Whether withholding is required must therefore be determined under subsection (a)(1)(C) (see subsections (d) and (e)).~~
- ~~D) A works for B construction company in Chicago. Occasionally the company obtains a construction job in State X which may last from one to several weeks. A is sent by the company to supervise the construction jobs in State X. The compensation for the service A performs in Illinois and State X is subject to withholding because the service performed in State X, being temporary in nature, is incidental to the service which he performs in Illinois.~~
- ~~E) A is a resident of Illinois and a buyer for a department store located in State X. Regular buying trips by A to Illinois are incidental to the service performed in State X because they are necessary to and supportive of A's primary duties which are localized in State X and not in Illinois. Unless compensation for the services A performs in Illinois and State X is deemed "compensation paid in this State" pursuant to HTA Section 701(b) and Section 100.7030 of this Part, compensation for the services A performs in Illinois and State X is not subject to withholding, notwithstanding that A being a resident, is taxable in Illinois on such compensation under HTA Sections 201 and 301(a).~~

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- d) Base of operations
- 1) ~~The localization tests are not applicable where an individual's employment normally or continually includes service within this State and also services without the State which are not "incidental" to the services performed within this State. In such case, if the individual's base of operations is within this State, his entire compensation will be subject to withholding, but if his base of operations is without this State, none of his compensation will be subject to withholding.~~
 - 2) ~~The term "base of operations" refers to the place or fixed center from which the individual works. An individual's base of operations may be his business office (which may be maintained in his home), or his contract of employment may specify a place at which the employee is to receive his directions and instructions. In the absence of more controlling factors, an individual's base of operations may be the place to which he has his business mail, supplies, and equipment sent or the place where he maintains his business records.~~
 - 3) This Section may be illustrated by the following examples:
 - A) ~~A is a salesman for the B corporation located in Chicago. His territory includes Illinois, State X and State Y. A uses the corporation office in Chicago as a base of operations. The compensation for service performed by A is subject to withholding because the service is not localized in any of the three States in which it is performed, but part of the service is performed in Illinois and A's base of operations is in Illinois.~~
 - B) ~~A is a salesman for the B corporation located in Chicago. A lives in State X and his territory includes State X and part of Cook County, Illinois. A starts his sales calls from and returns to his home daily. He keeps a catalogue and copies of correspondence from customers at his home, and writes his sales reports there. About once a week he reports to B's sales office in Chicago for consultation with and directions from the sales manager. Communications from customers to A are addressed to the Chicago sales office. A's letters to customers are on letterheads bearing the Chicago sales office address and are sometimes typed~~

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~~by A at home and sometimes dictated by him to a stenographer when he is in the Chicago sales office. Correspondence to A and his paychecks are sometimes picked up by A in Chicago and otherwise are forwarded by the sales office to his home. The duties which A performs at home are sufficient to make his home his base of operations. A's compensation is therefore not subject to withholding because his base of operations is in State X, and part of his service is performed in that state.~~

- C) ~~A, a resident of Illinois, sells products in Illinois, State X and State Y for B corporation, which is located in State Z. A operates from his home, where he receives instructions from his employer, communications from his customers, etc. Once a year, A goes to State Z for a 10 day sales meeting. All of A's compensation is subject to withholding; the service is not localized in any state but part of the service is performed in Illinois and A's base of operations is his home in Illinois.~~
- D) ~~A works for a company whose home office is in State X. He is a regional director working out of a branch office in Illinois. He works mostly in Illinois but spends considerable time in State X. A's base of operations is the branch office in Illinois. Since he performs some service in Illinois and his base of operations is in Illinois, it is immaterial that his source of direction and control is in State X. All of A's compensation for service is subject to withholding.~~
- E) ~~A, a resident of Illinois, is a salesman for the B corporation, which has its main office in State X. A works out of the main office and his territory is divided equally between State X and Illinois. A's compensation is not subject to withholding because his base of operations is in State X, and part of his service is performed in that State.~~
- F) ~~A, an airplane pilot for B airline, lives in State X and regularly flies between Chicago and cities in other states. A does not have an office but reports to a flight operations office in Chicago which determines flight assignments for A and other pilots reporting to that office. A receives his paycheck and other company mail at the~~

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~~flight operations office in Chicago. A's base of operations is Illinois. He performs some service in Illinois and it is not "incidental" to service performed elsewhere. All of A's compensation for service is subject to withholding.~~

e) ~~Place of direction or control~~

- 1) ~~The permanent place from which the employee's service is directed or controlled is relevant in determining whether wages are subject to withholding if the localization tests are not applicable and it is impossible to determine the base of operation for such individual. In such a case, if both the place from which the individual's service is directed or controlled is within this State, and some of the service is performed within this State, then his entire compensation will be subject to withholding, but if not, none of his compensation will be subject to withholding. For example, a salesman's territory may be so indefinite and so widespread that he will not retain any fixed business office or address but will receive his orders or instructions by mail or wire wherever he may happen to be. In such case, the location of the permanent place from which direction and control is exercised must be determined.~~
- 2) ~~The previous subsection may be illustrated by the following examples:~~
 - A) ~~A, a resident of State X, is employed as a salesman by B, a corporation with its main office in State Y. B has a permanent branch office and sales supervisor in Cairo, Illinois. A was hired by the branch office and sells merchandise for B in Illinois and other neighboring states as directed by the branch office in telephone calls but he has no place which he uses as a base of operations. All of the compensation for service performed by A for B is subject to withholding because A's service is not localized in any of the states in which he operates and he has no base of operations, but part of his service is performed in Illinois and the place from which the service is directed is in Illinois.~~
 - B) ~~A is a salesman residing in State X, who works for a concern whose factory and selling office is in Chicago, Illinois. A's territory covers five states, including Illinois. He does not report, start from or return to the Chicago office or from his residence in~~

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~~State X. State X is the territory of another salesman. A does not have a base of operations but would be subject to withholding since part of his service is performed in Illinois and the place from which the service is directed is in Illinois.~~

- ~~C) A, a contractor whose main office is in Illinois, is regularly engaged in road construction work in Illinois and State X. All operations are under direction of a general superintendent whose permanent office is in Illinois. Work in each state is directly supervised by field supervisors working from temporary field offices located in each of the two states. Each field supervisor has the power to hire and fire personnel; however, all requests for manpower must be cleared through the Illinois office. Employees report for work at the field offices. Time cards are sent weekly to the main office in Illinois where the payrolls are prepared. A is hired by a field supervisor in State X; he regularly performs service in both Illinois and State X. In such case, neither the localization nor the base of operations test would apply, but A's compensation would be subject to withholding. Part of A's service is performed in Illinois and his service is regarded as controlled from Illinois because the permanent office from which basic direction and control emanates is the Illinois office.~~

f) When residence is important

- ~~1) Residence is a factor in determining whether compensation paid to an individual is subject to withholding only when his service is not localized within some state; he performs no service in the state in which he has his base of operations (if he has a base of operations); and he performs no service in the state from which his service is directed or controlled. In such case, if the individual is a resident of this State, and some of his service is performed within this State, his entire compensation will be subject to withholding. However, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) is exempt from withholding.~~
- ~~2) Residence is also important in determining the Illinois income tax obligations of certain employees of railroads, motor carriers and air carriers (see Section 100.2590 of this Part and subsection (b)).~~

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- 3) ~~Subsection (f)(1) may be illustrated by the following example: A is a salesman employed by the B company located in State X. His services are directed and controlled from the State X office and he has no base of operations. A lives in Illinois but his territory includes State Y and State Z as well as Illinois. All of A's wages are subject to withholding because no part of his service is performed in the state (State X) in which the place from which his services are directed is located, but part of his service is performed in Illinois and his residence is in Illinois.~~

cg) Deferred Compensation~~compensation~~

- 1) Under certain contractual unfunded deferred compensation agreements, payments are made by an employer to an employee for service rendered at an earlier date. In many ~~such~~ agreements, the employee receiving deferred compensation payments is not required to render any current service whatsoever, whereas in others he may be required to hold himself available to render advisory and consultative service, if called upon to do so, and to refrain from competition, but in either case, the amount of compensation is unrelated to any service being currently rendered. Payments made under ~~that kind of any such~~ deferred compensation agreement will be deemed to meet the tests set forth in Section 100.3120~~subsection (a)~~ for compensation paid in Illinois if paid to the individual while a resident of this State. Conversely, payments made under ~~that kind of such an~~ agreement ~~will be deemed not to be compensation paid in this State and~~ will not be subject to withholding if paid to the individual while a nonresident. Amounts paid to nonresidents under deferred compensation agreements may be allocated to Illinois under IITA Section 302(a) in accordance with Section 100.3120~~(b)(1)~~ notwithstanding the fact that ~~those such~~ amounts ~~are will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will~~ not be subject to withholding.
- 2) This subsection (c)~~Subsection (g)(1)~~ may be illustrated by the following example:
A is a corporate executive. On January 1, 1965, A entered into an agreement with B corporation under which A~~he~~ was to be employed by B in an executive capacity for a period of 5 years. Under the contract A is entitled to a stated annual salary and to additional compensation to be

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credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of \$5,000 on A's retirement beginning January 1, 1970. In the event of A's death prior to exhaustion of the account, the balance is to be paid to A's personal representative. A is not required to render any service to B after December 31, 1969. During 1970, A is paid \$5,000 while a resident of Illinois. This amount will be subject to withholding, because A's prior service will be deemed to have met one of the tests for compensation paid in Illinois.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

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

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
760.100	Amendment
760.270	Amendment
760.405	New Section
760.406	New Section
760.620	Amendment
- 4) Statutory Authority: Implementing and authorized by the Revised Uniform Unclaimed Property Act [765 ILCS 1026].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates the existing rule to make changes consistent with PA 101-342, PA 101-546, and PA 101-552. These Public Acts were enacted in August 2019 and address the reporting of property related to pre-need death care contracts, very small claims made by heirs, and property from public retirement systems, pension funds, and investment boards. This rulemaking also updates the "FastTrack" threshold to aid in the efficiency of processing simple, single-owner claims.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a

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period of 45 days following publication of this Notice. Comments should be submitted to:

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

217/524-0530
fax: 217/785-2777
SMeek@illinoistreasurer.gov

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Cemeteries, funeral homes, and financial institutions with funds on deposit or held in trust pursuant to Section 16 of the Illinois Pre-Need Cemetery Sales Act.
- B) Reporting, bookkeeping or other procedures required for compliance: These cemeteries and funeral homes no longer need to report this property. Instead, Section 18.5 of the Illinois Pre-Need Cemetery Sales Act provides an alternative reporting mechanism for unclaimed pre-need cemetery trust funds.
- C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

- A) Types of businesses subject to the proposed amendments:
 - 52 Finance and Insurance
 - 81 Other Services (except Public Administration)

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- B) Categories that the Agency reasonably believes the rulemaking will impact, including:
- ii. regulatory requirements
 - iii. record keeping
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not on a previous agenda because we did not anticipate the need prior to it being signed into law.

The full text of the Proposed Amendments 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 Pre-need Death Care Contracts
760.280 Reporting Securities
760.290 Deceased Owner
760.300 Apparent Owner Interest
760.310 Anti-Limitations Provision

SUBPART C: REPORTING

Section
760.400 Holder Reporting Required
[760.405 Reporting and Remitting by Pension Systems Subject to Section 15-1506 of the Act](#)
[760.406 Reporting and Remitting by Pension Systems Subject to Section 15-1505 of the Act](#)
760.410 Report Contents
760.420 Filing Dates
760.430 Early Reporting and Remittance of Property

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760.440	Extensions
760.450	Incomplete and Rejected Reports
760.460	Due Diligence Notice by Holder
760.470	Retention of Records by Holder

SUBPART D: NOTICE TO APPARENT OWNERS BY THE ADMINISTRATOR

Section	
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	
760.600	Claims
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
760.660	Property Subject to Recovery by Another State
760.670	Debt Collection Agencies
760.680	Holder Reimbursement
760.690	Securities Sale and Claims

SUBPART F: EXAMINATIONS

Section	
760.700	Authority
760.710	Purpose
760.720	Contract Auditors
760.730	Holder Advocates
760.740	Notice of Examination

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760.750	Entrance Conference
760.760	Examination Guidelines
760.770	Confidentiality Agreement
760.780	Evidence of Unpaid Debt or Undischarged Obligation
760.790	Estimation
760.800	Multistate Examinations
760.810	Bankruptcy
760.820	Audit Resolution Agreements
760.830	Report to Holder
760.840	Voluntary Disclosure Agreement Program
760.850	Examination of State-Regulated Financial Organizations

SUBPART G: ENFORCEMENT

Section	
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

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[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 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; amended at 44 Ill. Reg. _____, effective _____.

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,

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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.

"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.

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"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.

"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:

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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;

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

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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:

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:

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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

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;

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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 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; or

funds on deposit or held in trust pursuant to Section 16 of the Illinois Pre-Need Cemetery Sales Act.

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"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.

"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.

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"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:

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

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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]

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART B: PRESUMPTION OF ABANDONMENT

Section 760.270 Property Related to Pre-need 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.
 - 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.*

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- 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.
- 5) *Funds on deposit or held in trust pursuant to the Illinois Funeral or Burial Funds Act are presumed abandoned the earliest of:*
- A) *2 years after the date of death of the beneficiary;*
- B) *one year after the date the beneficiary has attained, or would have attained if living, the age of 105 when the holder does not know whether the beneficiary is deceased; or*
- C) *40 years after the contract for prepayment was executed, unless the apparent owner has indicated an interest in the property more than 40 years after the contract for prepayment was executed, in which case, 3 years after the last indication of interest in the property by the apparent owner. [765 ILCS 1026/15-201]*
- 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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- 3) Funds on deposit or held in trust pursuant to Section 16 of the Illinois Pre-Need Cemetery Sales Act are not property under the Act. Instead, Section 18.5 of the Illinois Pre-Need Cemetery Sales Act provides an alternative mechanism for unclaimed pre-need cemetery trust funds. The Illinois Office of the Comptroller is the primary regulator for these trust funds.
- 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].

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART C: REPORTING

Section 760.405 Reporting and Remitting by Pension Systems Subject to Section 15-1506 of the Act

- a) All retirement systems, pension funds, and investment boards created pursuant to Articles 3, 4, or 22 of the Illinois Pension Code must report abandoned property to the administrator.
- b) The report must include:
 - 1) Name of the owner and the names of any beneficiaries;
 - 2) Last known address, if known, of owner and beneficiaries, if any;
 - 3) Social Security number or taxpayer identification number of owner and beneficiaries, if any; and

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- 4) Dollar amount.
- c) All retirement systems, pension funds, and investment boards created pursuant to Articles 3, 4, or 22 of the Illinois Pension Code shall engage in the following due diligence for presumptively abandoned property with a value of \$50 or more:
- 1) Attempt to contact the apparent owner not less than 90 days before the filing of the report with the administrator, using first-class U.S. Mail, telephone, and email;
 - 2) Send to the apparent owner not less than 60 days before filing the report with the administrator a notice using certified U.S. Mail;
 - 3) Check related plan and employer records for more current contact information for the apparent owner, as well as for more current contact information for any beneficiaries;
 - 4) Attempt to contact designated beneficiaries to find updated contact information for the apparent owner;
 - 5) Make reasonable use of free internet search tools to search for an apparent owner; and
 - 6) Conduct additional due diligence such as the use of internet search tools, commercial locator services, credit reporting agencies, information brokers, investigation databases, and analogous services that may involve charges if the property is valued over \$1,000.
- d) A retirement system, pension fund, or investment board subject to this Section does not need to send due diligence mail or email to an address that it knows to be invalid.
- e) The due diligence requirements of this Section follow the U.S. Department of Labor Employee Benefits Security Administration's Field Assistance Bulletin No. 2014-01. If the U.S. Department of Labor issues subsequent guidance or regulations that requires additional due diligence or otherwise conflicts with this Section, then the retirement system, pension fund, or investment board shall comply with that guidance or those regulations.

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- f) All retirement systems, pension funds, and investment boards created pursuant to Articles 3, 4, or 22 of the Illinois Pension Code shall enter into an interagency agreement with the administrator concerning the due diligence and reporting requirements of this Section. The interagency agreement shall require an annual certification that the retirement system, pension fund, or investment board meets or exceeds the due diligence requirements of this Section.
- g) If a retirement system, pension fund, or investment board created pursuant to Articles 3, 4, or 22 of the Illinois Pension Code satisfies the due diligence and certification requirements of Section 15-1506 of the Act, then that retirement system, pension fund, or investment board shall report presumptively abandoned property in an annuity, pension, or benefit fund held in a fiduciary capacity by or on behalf of that retirement system, pension fund, or investment board pursuant to this Section, but is not required to remit presumptively abandoned property to the administrator.
- h) If a retirement system, pension fund, or investment board created pursuant to Articles 3, 4, or 22 of the Illinois Pension Code does not meet the due diligence and certification requirements of Section 15-1506 of the Act, then that retirement system, pension fund, or investment board is required to both report and remit all presumptively abandoned property pursuant to the Act, including presumptively abandoned property in an annuity, pension, or benefit fund held in a fiduciary capacity.
- i) A retirement system, pension fund, or investment board created pursuant to Articles 3, 4, or 22 of the Illinois Pension Code is still required to report and remit to the administrator all other presumptively abandoned property that is not in an annuity, pension, or benefit fund held in a fiduciary capacity.

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 760.406 Reporting and Remitting by Pension Systems Subject to Section 15-1505 of the Act

- a) Property in an annuity, pension, or benefit fund held in a fiduciary capacity by or on behalf of a retirement system, pension fund, or investment board created pursuant to any Article of the Illinois Pension Code, except for Articles 3, 4, and

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22, that would be presumed abandoned under Article 2 of the Act shall be reported to the administrator but not paid or delivered to the administrator.

- b) The report must include:
- 1) Name of the owner and the names of any beneficiaries;
 - 2) Last known address, if known, of owner and beneficiaries;
 - 3) Social Security number or taxpayer identification number of owner and beneficiaries, if any; and
 - 4) Dollar amount.
- c) A retirement system, pension fund, or investment board created pursuant to any Article of the Illinois Pension Code is still required to report and remit to the administrator all other presumptively abandoned property that is not in an annuity, pension, or benefit fund held in a fiduciary capacity.

(Source: Added at 44 Ill. Reg. _____, effective _____)

SUBPART E: CLAIMS

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 \$2,000 or less~~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

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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) *An heir or agent who files an unclaimed property claim in which the decedent's property does not exceed \$100 may submit an affidavit attesting to the heir's or agent's capacity to claim in lieu of submitting a certified copy to verify a claim. [765 ILCS 1026/15-904]*

fe) 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;
- 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;

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- 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.
- gf) 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.
- hg) 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.
- ih) 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.
- ji) *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]*

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(Source: Amended at 44 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Public Accounting Act
- 2) Code Citation: 68 Ill. Adm. Code 1420
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1420.5	Amendment
1420.40	Amendment
1420.60	Amendment
1420.70	Amendment
1420.72	Amendment
1420.75	Amendment
1420.80	Amendment
1420.85	Amendment
1420.110	Amendment
- 4) Statutory Authority: Implementing the Illinois Public Accounting Act [225 ILCS 450] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].
- 5) Effective Date of Rules: January 3, 2020
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. See Subsection 1420.75 (b).
- 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 *Illinois Register*: 43 Ill. Reg. 10233; September 20, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The word "corporation" was reinstated multiple times within the rule as an entity able to provide nonverifiable CPE per suggestions from the commenters. Also, in Section 1420.75(b), of the adopted version, in the phrase, "The Division adopts, but is not bound by, the AICPA Standards...", the underlined text in the proposed version has been deleted. That language was originally included because although the AICPA (American Institute of Certified Public

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Accountants) is a trade group that helps create standards for professionalism in the field of public accounting, they are not a governmental entity that is answerable to anyone outside of its paid members, unlike DPR which is a regulatory agency sanctioned by both the Governor and Illinois State Legislature to oversee the public accounting profession. The line, "but is not bound by" was originally added for the purpose of avoiding any Constitutional issues to ensure the DPR didn't become an enforcement arm for a private entity. However, the line was confusing in that it appeared to look like DPR would not be consistent with the standards so it was decided to remove that added language during 2nd Notice.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: PA 100-419 made significant changes to the Illinois Public Accounting Act. The changes included allowing for PA firm mobility, allowing for continuing education reciprocity with other jurisdictions and updates for the Peer Review process. The adopted rules implement these statutory changes and bring Illinois up to par with other states' practices in regulating the CPA professions.
- 16) Information and questions regarding these adopted rules shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield IL 62786

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

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

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1420

ILLINOIS PUBLIC ACCOUNTING ACT

Section

1420.5	Definitions
1420.10	Experience
1420.20	Application for Licensure as a Certified Public Accountant
1420.25	Application for Licensure as a Registered Certified Public Accountant (Repealed)
1420.30	Application for Licensure as a Certified Public Accounting Firm
1420.35	Temporary Practice (Repealed)
1420.40	Fees
1420.50	Endorsement
1420.60	Restoration
1420.70	Continuing Professional Education
1420.72	Continuing Professional Education Sponsors
1420.75	Peer Review
1420.80	Renewals
1420.85	Inactive Status
1420.90	Annual Report of the Committee (Repealed)
1420.100	Conduct of Hearings (Repealed)
1420.110	Granting Variances
1420.200	Unprofessional Conduct

AUTHORITY: Implementing the Illinois Public Accounting Act [225 ILCS 450] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105].

SOURCE: Rules and Regulations for the Administration and Enforcement of the Provisions of the Illinois Public Accounting Act, effective June 30, 1975; codified at 5 Ill. Reg. 11058; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7748, effective June 15, 1982; emergency amendment at 7 Ill. Reg. 14548, effective October 13, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 6179, effective April 25, 1984; amended at 9 Ill. Reg. 5708, effective April 15, 1985; amended at 9 Ill. Reg. 8738, effective May 28, 1985; amended at 9 Ill. Reg. 13360, effective August 21, 1985; amended at 10 Ill. Reg. 20739, effective December 1, 1986; amended at 11 Ill. Reg. 18276, effective October 27, 1987;

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transferred from Chapter I, 68 Ill. Adm. Code 420 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1420 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2944; amended at 19 Ill. Reg. 16258, effective November 28, 1995; amended at 21 Ill. Reg. 15255, effective November 17, 1997; amended at 24 Ill. Reg. 14005, effective August 31, 2000; amended at 29 Ill. Reg. 9853, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 16435, effective September 29, 2006; amended at 31 Ill. Reg. 3475, effective February 15, 2007; amended at 35 Ill. Reg. 1957, effective January 20, 2011; amended at 36 Ill. Reg. 14689, effective October 5, 2012; amended at 40 Ill. Reg. 3692, effective March 11, 2016; amended at 44 Ill. Reg. 184, effective January 3, 2020.

Section 1420.5 Definitions

"Act" means the Illinois Public Accounting Act [225 ILCS 450].

"AICPA" means the American Institute of Certified Public Accountants.

"Board" means the Board of Examiners established under Section 2 of the Act.

"Client" means the person or entity that retains a CPA or CPA firm for the performance of accountancy activities.

"Committee" means the Public Accountant Registration and Licensure Committee appointed by the Secretary.

"CPA" means a certified public accountant who holds a license or registration issued by the Department or an individual authorized to use the CPA title under Section 5.2 of the Act.

"CPA Firm" means a sole proprietorship, corporation, registered limited liability partnership, limited liability company, partnership, professional service corporation, or any other form of organization issued a license in accordance with the Act.

"CPE" means continuing professional education.

"CPE Sponsor" means a continuing professional education sponsor as set forth in Section 1420.72.

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"Department" means the Illinois Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation.

"NASBA" means the National Association of State Boards of Accountancy.

"PRRC" means a Peer Review Report Committee.

"Society" means the Illinois CPA Society [Peer Review Alliance](#).

(Source: Amended at 44 Ill. Reg. 184, effective January 3, 2020)

Section 1420.40 Fees

- a) The fee for application as a licensed CPA is \$120;
- b) The fee for renewal of a license as a licensed CPA is \$40 per year;
- c) The fee for renewal of a license as a registered CPA is \$30 per year;
- d) The fee for ~~applicationa license~~ as a licensed CPA firm is \$120;
- e) The fee for renewal of a license as a CPA firm is \$40 per year;
- f) The fee for restoration of a license from inactive status is the current renewal fee;
- g) The fee for restoration of a license as a licensed CPA, registered CPA, CPA firm, or CPE sponsor, other than from inactive status, is \$50 plus all lapsed renewal fees, not to exceed \$260;
- h) The fee for certification of a licensee's record is \$20;
- i) ~~The fee for a duplicate or replacement license is \$20;~~

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- j) ~~The fee for a wall certificate is the cost of production;~~
- k) ~~The fee for change of name or address on a licensee's record, other than during renewal, is \$20;~~
- l) ~~The fee for a roster of licensed and/or registered CPAs shall be the actual cost of producing such a roster;~~
- im) The fee for application to be a CPE sponsor is \$150. Publicly supported colleges, universities and governmental agencies located in Illinois are exempt from payment of fees for CPE sponsor application and renewal;
- jn) The renewal fee for CPE sponsors shall be \$150 per year.

(Source: Amended at 44 Ill. Reg. 184, effective January 3, 2020)

Section 1420.60 Restoration

- a) A person seeking restoration of a license as a registered CPA ~~that, after it has~~ been expired or been placed on inactive status for 5 years or more, shall submit:
 - 1) ~~A~~ completed and signed application for restoration on forms provided by the Division; and
 - 2) ~~The~~ required fee set forth in Section 1420.40.
- b) A person seeking restoration of a license as a licensed CPA ~~that, after it has~~ been expired or been placed on inactive status for 5 years or more, shall submit:
 - 1) ~~A~~ completed and signed application on forms provided by the Division;
 - 2) ~~The~~ required fee set forth in Section 1420.40;
 - 3) ~~Proof~~ of completion of required CPE ~~as~~ set forth in Section 1420.70 in the 3 years immediately preceding the application for restoration; and
 - 4) One of the following:
 - A) Verification of employment completed by an employer, co-worker

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or client;

- B) Verification of employment and certification of licensure from the licensing authority, stating the dates of licensure and whether the records of the licensing authority contain any record of disciplinary action taken or pending;
 - C) Verification of employment attesting to the applicant's performance of accountancy activities in a jurisdiction where licensure is not required;
 - D) An affidavit attesting to military service as provided in Section 17.1 of the Act; or
 - E) Other proof acceptable to the Division of the applicant's fitness to have the license restored.
- e) ~~Individuals who held a license in Illinois as a certified public accountant less than 3 years are not required to complete the minimum 4 hours in professional ethics.~~
- cd) A person seeking restoration of a license that has been expired or been placed on inactive status for less than 5 years shall have the license restored upon payment of the required fee set forth in Section 1420.40. A licensed CPA must also submit proof of completion of required CPE-~~as~~ set forth in Section 1420.70. The CPE hours must have been obtained within the 3 years immediately preceding the application for restoration. However, any licensee whose license expired while in military service-~~as~~ set forth in Section 17.1 of the Act shall be excused from the payment of any lapsed renewal fees if the application for restoration is made within 2 years after honorable discharge from military~~termination of that~~ service.
- de) Any person seeking restoration of a license within 2 years after honorable discharge from military service as set forth in Section 17.1 of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the CPE requirements set forth in Section 1420.70.
- ef) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of lack of information, discrepancies, conflicts in information, or a need

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for clarification, the licensee seeking restoration of a license will be requested to provide information as may be necessary.

(Source: Amended at 44 Ill. Reg. 184, effective January 3, 2020)

Section 1420.70 Continuing Professional Education

- a) Continuing Professional Education Hour Requirements
 - 1) In order to renew a license as a licensed CPA, a licensed CPA shall complete 120 hours of CPE every 3-year renewal period. Of the 120 hours, at least 4 hours shall be courses covering the subject of professional ethics. A licensed CPA is exempt from CPE requirements for the first renewal following the original issuance of the license. Licensees shall maintain CPE records for not less than 6 years.
 - 2) A registered CPA is exempt from CPE requirements.
 - 3) ~~Credit Hours~~ Each approved CPE course, program or activity shall be measured by program length, with one 50-minute period equal to one CPE credit. One-half CPE credits (equal to 25 minutes) are permitted after the first credit has been earned in a given learning activity. Courses that are part of the curriculum of a university, college or other educational institution shall be awarded CPE course credit at the rate of 15 credit hours for each semester hour, or 10 credit hours for each quarter hour of school credit awarded.
 - 4) CPE credit will be allowed for programs or courses taken toward the satisfaction of CPE requirements in other states.
 - 5) CPE hours earned in excess of the 120-hour requirement during any 3-year renewal period shall not be eligible for use as credit in a subsequent renewal cycle.
- b) Approved CPE
 - 1) CPE is professional development activities that are formal and informal learning opportunities contributing directly to a licensee's CPA's knowledge, ability or competence to perform professional responsibilities.

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CPE may be verifiable or nonverifiable, as set forth in subsections (b)(3) and (4).

- 2) CPE should address a licensee's current and future work environment, current knowledge and skills level, and desired or needed additional competencies to meet future opportunities and/or professional responsibilities. Courses, programs or activities shall include as their subject matter one or more of the following fields of study:
 - A) Accounting
 - B) Accounting (Governmental)
 - ~~C) Administrative Practice~~
 - ~~CD) Auditing~~
 - ~~DE) Auditing (Governmental)~~
 - ~~EF) Behavioral Ethics~~
 - ~~FG) Business Law~~
 - ~~GH) Business Management & Organization (including practice development)~~
 - ~~HI) Communications and Marketing~~
 - ~~IJ) Computer Software and Applications Science~~
 - ~~JK) Economics~~
 - ~~KL) Finance~~
 - L) Information Technology
 - M) Management ~~Advisory~~ Services
 - N) Marketing

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~~Q)~~ ~~Mathematics~~

~~NP)~~ Personal Development (e.g., principle-centered leadership, career planning, time management)

~~OQ)~~ Personnel/HR

~~PR)~~ Production

~~QS)~~ Regulatory Ethics

~~T)~~ ~~Social Environment of Business~~

~~RU)~~ Specialized Knowledge ~~and Applications~~

~~SV)~~ Statistics

~~TW)~~ Taxes

- 3) Verifiable CPE is learning activities that include, but are not limited to, attending, developing, teaching or presenting CPE that can be independently objectively confirmed by a CPE sponsor, including, but not limited to, attending, developing, teaching or presenting CPE.

A) Verifiable CPE shall:

- i) ~~Be~~ developed and presented by persons with education and/or experience in the subject matter of the CPE to ensure compliance with the standards stated in this Section and Section 1420.72;
- ii) ~~Include~~ include some mechanism by which the participants evaluate the quality of the program;
- iii) ~~Specify~~ specify the course objectives, level of knowledge necessary for, and prerequisites to, enrollment, if any, course content, any necessary advance preparation,

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teaching methods to be used, and the number of CPE hours that will be earned;

- iv) ~~Provide~~provide each participant with a certificate or other proof of attendance that must include the name, address and authorized signature of the approved sponsor, the name and address of the participant, the title of the course, the number of hours actually attended in each topic, and the date the CPE was given. CPE sponsors shall also provide each participant with an outline of the subject matter. If the CPE sponsor is a CPA firm licensed under the Act, and the CPE is given in a CPA firm, the sponsor will not be required to provide certificates of attendance to the employees of the CPA firm attending the CPE, but must maintain an attendance log containing an authorized signature of the CPA firm offering the CPE; and
- v) ~~Include~~include the following self-study CPE:
- Interactive self-study CPE using interactive learning methodologies that simulate the classroom learning process by employing computer software, other technology or administrative systems that provide significant, ongoing, interactive feedback to the learner regarding the learning process. Interactive self-study CPE shall qualify for full credit. Internet-based live programs (concurrent simulcasts of group live programs or webcasts) are treated as "live" programs and not interactive self-study CPE.
 - Noninteractive self-study CPE that does not employ interactive features. Examples include videos, books and audiotapes for which the participant must complete and submit an examination for grading without knowledge of which questions are answered incorrectly or why. Credit hours for noninteractive self-study CPE shall be allowed on the basis of one-half of the average completion time determined by the sponsor. Noninteractive self-study CPE shall

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qualify if it meets all other requirements of this Section and Section 1420.72, it indicates average completion time on the course material, and it provides some mechanism or process by which to provide evidence of satisfactory completion by the licensee beyond certification by the licensee. In no case shall credit for noninteractive self-study CPE be given for more than 60 hours during any renewal period. Additionally, not more than 80 hours during any renewal period may consist of a combination of interactive and noninteractive self-study CPE.

- B) A licensee who serves as an instructor, speaker or discussion leader of an approved provider will be allowed CPE credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. ~~CPE credit~~ shall not be allowed for ~~repeat~~repetitious presentations of the same CPE. In no case shall ~~more than 60 hours of credit be given for presentation or preparation time during any renewal period~~ more than 60 hours of credit be given for presentation and preparation during any renewal period.
- C) CPE credit will be allowed for ~~actual~~ authorship of published articles and books, provided the subject matter of the article or book complies with this Section and Section 1420.72. CPE credit shall be allowed for actual time spent in writing or researching, but in no case shall ~~more than 30 hours of credit be given during any renewal period~~ more than 30 hours of credit be given during any renewal period for authorship of published articles or books ~~be given for more than 30 hours during any renewal period~~.
- D) Acceptable evidence of completion of verifiable CPE includes:
- i) For live group CPE or real time internet-based CPE (such as webinars), other than in-firm CPE, a certificate or other verification supplied by the CPE sponsor.
 - ii) For self-study CPE, a certificate supplied by the CPE sponsor after satisfactory completion of an examination.

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- iii) For instruction credit, a certificate or other verification supplied by the CPE sponsor.
 - iv) For a university or college course that is successfully completed for credit, a record or transcript of the grade the participant received.
 - v) For a university or college noncredit course, a certificate of attendance issued by a representative of the university or college.
 - vi) For published articles, books or development/review of CPE, a copy of the publication (or in the case of a CPE program, course development documentation) that names the writer or author or contributor, a statement from the writer supporting the number of CPE hours claimed, and the name and contact information of the independent reviewers or publisher.
- 4) Nonverifiable CPE is independent or informal learning activities that may not be independently confirmed by a CPE sponsor.
- A) Nonverifiable CPE includes the following:
- i) Attendance at CPE coordinated and presented by a person, CPA firm, association, corporation or group, other than a recognized CPE sponsor;
 - ii) Participation and work on technical committees of an international, national or state professional association or member organization;
 - iii) Professional reading of published materials that does not provide a certificate of completion or an assessment process; or
 - iv) Consultation with outside experts or research in a subject area new to the licensee (e.g., how to report discontinued operations) or when regulations or standards have changed

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(e.g., accounting for leases). Credit may not be claimed for repeat consultations or research in the same subject area when regulations or standards have not changed significantly.

- B) Acceptable evidence for completion of nonverifiable CPE shall include all of the following:
- i) For CPE coordinated and presented by a person, CPA firm, association, corporation or group, other than a recognized CPE sponsor, acceptable evidence shall include a certificate or other verification if supplied by the program sponsor. Acceptable evidence must include copies of the course agenda, program materials or other documents attributable to the learning activity.
 - ii) For CPE listed in subsections (b)(4)(A)(ii) through (iv), acceptable evidence must include all of the following:
 - The nature of the CPE (e.g., research topic or specific new competency acquired) and the source;
 - The dates on which the CPE was undertaken;
 - The number of hours attributed to the CPE;
 - Details of the relevance of the CPE to the participant's current or future professional development; and
 - Copies of consultation memorandums, minutes or other documents attributed to the CPE.
- C) Not more than 10 hours shall be claimed for each of the nonverifiable activities listed in subsections (b)(4)(A)(ii) through (iv) during any renewal period. Not more than 60 hours during any renewal period may consist of a combination of all nonverifiable activities defined in subsection (b)(4).

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- 5) Not more than 24 hours during any renewal period may consist of personal development CPE.
- c) Licensees with an address of record outside of Illinois who are actively licensed as a CPA by the state in their address of record shall be considered compliant with the CPE requirements of this Section if the licensee has complied with the CPE renewal requirements of the state in their address of record, ~~so long as the licensee has completed 120 hours of CPE during the Illinois renewal cycle.~~
- d) The Division may periodically audit CPE course information submitted by licensees. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of CPE compliance pursuant to subsection (a)(1).
- e) Waiver of CPE Requirements
 - 1) Any renewal applicant seeking renewal of a license without having fully complied with these CPE requirements shall submit to the Division a renewal application, the required fee set forth in Section 1420.40, a statement setting forth the facts concerning noncompliance, and a request for waiver of the CPE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division finds from such statement affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of CPE requirements for the renewal period for which the applicant has applied.
 - 2) Extreme hardship shall be determined on an individual basis and is defined as an inability to devote sufficient hours to fulfilling the CPE requirements during the applicable prerenewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
 - B) An incapacitating illness documented by a statement from a currently licensed physician; or
 - C) Other~~Any other~~ similar extenuating circumstances.

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- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, as set forth in this Section and Section 1420.72, shall be deemed to be in good standing until the final decision on the ~~waiver request~~[application](#) is made by the Division.

(Source: Amended at 44 Ill. Reg. 184, effective January 3, 2020)

Section 1420.72 Continuing Professional Education Sponsors

- a) CPE may be earned for verified attendance at or participation in any course or program given or approved by one of the following:
 - 1) AICPA;
 - 2) Illinois CPA Society~~Foundation~~;
 - 3) A university or college approved by its governing board in the State of Illinois, or equivalent public authority governing board if in another jurisdiction, to award accounting degrees;
 - 4) CPE sponsored ~~by~~, or approved by, other states or other state CPA societies;
 - 5) A person, CPA firm, association, corporation or any other group that applies pursuant to subsection (b) and has been licensed and authorized by the Division to coordinate and present CPE; or
 - 6) NASBA and persons, CPA firms, associations, corporations or other groups that are members of NASBA's National Registry of CPE Sponsors or Quality Assurance Service Program.
- b) An entity seeking a CPE sponsor license, including those set forth in subsections (a)(1) through (5), shall submit:
 - 1) A completed and signed application on forms provided by the Division;
 - 2) The required fee set forth in Section 1420.40, with the exception of CPE sponsors set forth in subsection (a)(3);

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- 3) Certification that:
 - A) All CPE offered by the sponsor for CPE credit will comply with this Section and Section 1420.70;
 - B) The CPE sponsor will verify attendance at all CPE and will maintain attendance records for not less than five years; and
 - C) Upon request by the Division, the sponsor will submit evidence necessary to establish compliance with the requirements of Section 1420.70 and this Section.
- c) Upon failure of any CPE sponsor to comply with the requirements of Section 1420.70 and this Section, the Division shall issue a written notification to the CPE sponsor that it must remedy its noncompliance prior to providing further CPE.
- d) CPE sponsors' CPE may be disapproved if the CPE sponsor fails to provide information to the Division.

(Source: Amended at 44 Ill. Reg. 184, effective January 3, 2020)

Section 1420.75 Peer Review

- a) Establishment of Peer Review Program
 - 1) Pursuant to Section 16(e) of the Act, the Division establishes a Peer Review Program to monitor a CPA firm's and sole practitioner's compliance with applicable accounting, auditing and other attestation standards adopted by generally recognized standard-setting bodies. The program may include education, remediation, disciplinary sanctions or other corrective action in which performance does not comply with professional or regulatory standards.
 - 2) The Division shall not require any CPA firm or sole practitioner to become a member of any Peer Review Administrator.
- b) Standards for Peer Reviews

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The Division adopts the AICPA Standards for Performing and Reporting on Peer Reviews (~~2017~~~~2015~~, no later amendments or editions apply) and related Interpretations (~~2018~~~~2015~~, no later amendments or editions apply), 1211 Avenue of the Americas, New York NY 10036-8775, for reviews commencing on or after January 1, 2009, and, for public company audit firms, the firm inspection standards required under the Sarbanes-Oxley Act of 2002 (SOX) (18 USC 7201 et seq.) as its minimum standards for review.

- c) Peer Review Administrators
- 1) The Division, upon recommendation of the Committee, approves the following as Qualified Peer Review Administrators:
 - A) ~~The~~ AICPA;
 - B) ~~The~~ AICPA National Peer Review Committee;
 - C) ~~The~~ Society;
 - D) ~~Other~~ state CPA societies;
 - E) ~~Other~~ organizations that are fully involved in the administration of the AICPA Peer Review Program; and
 - ~~F) the National Conference of CPA Practitioners (NCCPAP); and~~
 - ~~FG) The~~ Public Company Accounting Oversight Board (PCAOB).
 - 2) A Peer Review Administrator not listed in subsection (c)(1) shall submit an application to the Division, on forms provided by the Division, to receive authorization to act as a Peer Review Administrator.
 - 3) To qualify as a Peer Review Administrator, an entity must annually submit a peer review plan of administration to the Division for review and approval. The plan of administration must:
 - A) ~~Establish~~ a PRRC, and subcommittees as needed, and provide professional staff as needed for the operation of the peer review program;

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- B) ~~Establish~~ establish a program to communicate to CPA firms and sole practitioners participating in the peer review program the latest developments in peer review standards and the most common findings in the peer reviews conducted by the Peer Review Administrator;
 - C) ~~Establish~~ establish procedures for resolving any disagreement that may arise out of the performance of a peer review;
 - D) ~~Establish~~ establish procedures to resolve matters that may lead to the dismissal of a CPA firm or sole practitioner from the peer review program;
 - E) ~~Establish~~ establish procedures to evaluate and document the performance of each reviewer, which may lead to the disqualification of a reviewer who does not meet the AICPA standards;
 - F) ~~Require~~ require the maintenance of records of peer reviews conducted under the program in accordance with the record retention rules of the AICPA; and
 - G) ~~Provide~~ provide reports on the results of the peer review program to the Division upon request.
- 4) A Peer Review Administrator shall submit its plan of administration on forms provided by the Division. Peer Review Administrators set forth in subsection (c)(1) are exempt from the plan of administration submission requirements.
 - 5) A Peer Review Administrator is subject to oversight by the Division for the purpose of carrying out the provisions of the Act.
- d) Enrollment and Participation
- 1) For renewals on or after July 1, 2012, satisfactory completion of a peer review is required as a condition for renewal of a license for each CPA firm or sole practitioner who performs accountancy activities outlined in

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Section 8.05(a)(1) of the Act. For purposes of this Section, satisfactory completion shall be defined as follows:

- A) Peer reviews of CPA firms and sole practitioners that are accepted by the PRRC without remedial or corrective actions shall be considered completed when accepted.
 - B) Peer reviews of CPA firms and sole practitioners that are accepted by the PRRC subject to any identified remedial or ~~corrective~~ corrective actions shall be considered accepted on the date the CPA firm or sole practitioner signs an acceptance letter from the PRRC agreeing to complete the remedial or corrective actions and shall be considered completed when the CPA firm or sole practitioner completes the remedial or corrective actions to the satisfaction of the PRRC. The Division may grant renewal of a CPA firm's or sole practitioner's license upon the acceptance of its peer review, rather than upon the completion of its peer review.
 - C) Pursuant to Section 16(g) of the Act, the Division may hold a hearing for any CPA firm or sole practitioner that fails to satisfactorily complete a peer review or comply with any remedial or corrective actions determined necessary by the PRRC.
- 2) Each CPA firm or sole practitioner required to participate under Section 16(e) of the Act shall ~~be enrolled~~ enroll in the program of an approved Peer Review Administrator and shall comply with the review due date assigned by an approved Peer Review Administrator. It is the responsibility of the CPA firm or sole practitioner required to complete a peer review to schedule and satisfactorily complete a peer review prior to the expiration date set for renewal. Failure to schedule a peer review with an approved Peer Review Administrator in sufficient time to enable the Peer Review Administrator to accept the review, as determined by the Peer Review Administrator, by the renewal date shall not constitute an excuse for failure to satisfactorily complete the peer review required for renewal.
 - 3) The Division, in its discretion, may accept extensions granted by the Peer Review Administrator to complete a review. Extensions exceeding 3 months beyond the original due date established by the Peer Review Administrator must be approved by the Division and only for reasonable

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cause. Reasonable cause shall be determined on an individual basis by the Division and be defined as an inability to fulfill the peer review requirements during the applicable prerenewal period due to:

- A) ~~Full~~ full-time service by a sole practitioner in the Armed Forces of the United States of America during a substantial part of the prerenewal period;
 - B) ~~A~~ a temporary incapacitating illness of a sole practitioner documented by a statement from a currently licensed physician;
 - C) ~~Undue~~ ~~and~~ hardship (including, but not limited to, prolonged hospitalization, family illness, CPA firm dissolution or reorganization); or
 - D) ~~Other~~ ~~any other~~ similar extenuating circumstances.
- 4) A CPA firm or sole practitioner may choose from among the list of Qualified Peer Review Administrators in subsection (c) to administer its peer review; but must comply with all requirements of the Peer Review Administrator ~~in~~ with which it is enrolled.
- 5) A CPA firm or sole practitioner choosing to change to another Peer Review Administrator may do so provided that the CPA firm or sole practitioner authorizes the previous Peer Review Administrator to communicate to the succeeding Peer Review Administrator any outstanding corrective actions related to the CPA firm's or sole practitioner's most recent review. Any outstanding actions must be ~~corrected~~ cleared and the peer review satisfactorily completed in accordance with subsections (d)(1)(A) and (B) prior to transfer between Peer Review Administrators.
- 6) An out-of-state CPA firm practicing in this State pursuant to a practice privilege provided for in Section 5.2(d) of the Act must comply with the peer review program of the state in which the CPA firm is licensed.
- 7) An out-of-state CPA firm practicing in this State pursuant to a practice privilege provided for in Section 5.2(d) of the Act from a state without a

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peer review program must comply with the peer review requirements set forth in Section 16(e) of the Act.

- 8) An out-of-state CPA firm practicing in this State pursuant to a practice privilege provided for in Section 5.2(d) of the Act must submit proof of satisfactory completion of a peer review (or equivalent) at the request of the Division.
 - 9) In the event a CPA firm's or sole practitioner's practice is sold, dissolved or merged with the practice of one or more CPA firms or sole practitioners, determination of successor or predecessor CPA firms, peer review year-end and peer review due date, if any, will be determined by the Peer Review Administrator.
- e) Effect of Successive Substandard Reviews
- 1) CPA firms and sole practitioners enrolled in a Peer Review Program are required under the AICPA Standards for Performing and Reporting on Peer Reviews to cooperate with the Peer Reviewer, Peer Review Administrator, ~~and~~ PRRC, and AICPA Peer Review Board or its equivalent in all matters related to the review that could impact the CPA firm's or sole practitioner's enrollment in the program.
 - 2) If a CPA firm or sole practitioner receives a system or engagement review with a peer review rating of pass with deficiencies or fail, the Peer Review Administrator shall send notification to the CPA firm or sole practitioner, or its successor, via certified mail, or other delivery method providing proof of receipt, that failure to receive a report rating of pass on its next system or engagement review may be deemed failure to cooperate under subsections (e)(3) and (4).
 - 3) If a CPA firm or sole practitioner, or its successor, receives two consecutive system or engagement reviews with a peer review rating of pass with deficiencies or fail, the Peer Review Committee shall assess whether the CPA firm or sole practitioner, or its successor, has failed to cooperate in all matters related to the review.
 - 4) If a CPA firm or sole practitioner, or its successor, is deemed to have failed to cooperate, the Peer Review Committee may refer the CPA firm

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or sole practitioner, or its successor, to the AICPA Peer Review Board, or its equivalent, to consider whether a hearing should be held regarding the CPA firm's or sole practitioner's, or its successor's, termination from the Peer Review Program.

- 5) If a CPA firm or sole practitioner, or its successor, is deemed to have cooperated in all matters related to the review, the CPA firm or sole practitioner, or its successor, shall complete any required remedial or corrective actions to the satisfaction of the PRRC and undergo another peer review within 3½ years after the due date of the prior review~~have an accelerated review.~~
 - 6) If a CPA firm or sole practitioner, or its successor, receives a third consecutive peer review rating of pass with deficiencies or fail, the Peer Review Committee shall refer the CPA firm or sole practitioner, or its successor, to the AICPA Peer Review Board, or its equivalent, to consider whether a hearing will be held regarding the CPA firm's or sole practitioner's, or its successor's termination from the Peer Review Program.~~any accelerated review results in a peer review rating of pass with deficiencies or fail:~~
 - A) ~~the CPA firm or sole practitioner may complete attest engagements for which field work has already begun only if it engages a third party reviewer acceptable to the Division; and~~
 - B) ~~the CPA firm or sole practitioner shall not perform any other service requiring a license under Section 8.05 of the Act until given permission by the Division to resume practice. The Division may impose disciplinary or nondisciplinary guidelines and conditions for continued practice.~~
 - 7) The Division, in its discretion, may require any CPA firm or sole practitioner that has received a report with a peer review rating of pass with deficiencies or fail to be subject to remedial action as determined by the Division.
- f) PRRC Qualifications and Responsibilities

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- 1) PRRC members are subject to the qualifications and have the responsibilities outlined in the AICPA Standards for Performing and Reporting on Peer Reviews and related guidance.
 - 2) Each PRRC member must comply with the confidentiality requirements of Section 16(f)(2) of the Act. The Peer Review Administrator may annually require its PRRC members to sign a statement acknowledging their appointments and the responsibilities and obligations of their appointments.
- g) Division Access to Results of CPA Firm's or Sole Practitioner's Peer Reviews
- 1) A CPA firm or sole practitioner shall submit the following peer review documents promptly upon Division request~~The Division may request from a CPA firm or a sole practitioner any of the following peer review documents:~~
 - A) Peer~~peer~~ review report;
 - B) Letter~~letter~~ of response, if applicable;
 - C) Acceptance~~acceptance~~ letter;
 - D) Letter~~letter~~ signed by the reviewed CPA firm accepting the peer review documents with the understanding that the CPA firm agrees to take certain actions, if applicable; and
 - E) Letter~~letter~~ notifying the reviewed CPA firm that certain required actions have been completed, if applicable.
 - 2) To comply with the Division's request in subsection (g)(1), the Peer Review Administrator for CPA firms~~firm~~ or sole practitioners shall post the documents listed in subsection (g)(1)~~practitioner must submit the requested documents to the Division~~ within 45 days after the Division's request to the AICPA Facilitated State Board Access website, to which the Division shall have access, either by mail or electronically (e.g., by fax or email). In addition, the submission requirement may be met by allowing the documents to be made available to the Division via a state board access only website by the Peer Review Administrator.

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- 3) Documents received under this Section are subject to the confidentiality provisions stated in the Act.
- h) The Division may consider the recommendation of the Public Accountant Registration and Licensure Committee regarding peer review in the State of Illinois.

(Source: Amended at 44 Ill. Reg. 184, effective January 3, 2020)

Section 1420.80 Renewals

- a) **Individuals**
Every license issued to an individual under the Act shall expire on September 30 every ~~3~~³ years. The holder of a license may renew the license during the 2 months preceding the expiration date by submitting the fee required by Section 1420.40 and meeting the CPE requirements set forth in Section 1420.70. ~~No carryover of CPE hours is allowed from one prerenewal period to another.~~
- b) **CPA Firms**
Every license for a CPA firm shall expire on November 30 every 3 years. CPA firms may renew their license during the 2 months preceding the expiration date by submitting the fee required by Section 1420.40, notification of any change in members residing in Illinois, and verification that the CPA firm continues to meet the qualifications set forth in Section 14 of the Act.
- c) **CPE Sponsors**
Every license for a CPE sponsor shall expire on December 31 every year. CPE sponsors may renew their license during the 2 months preceding the expiration date by submitting the fee required by Section 1420.40 and verification that the CPE sponsor continues to meet the qualifications set forth in Section 1420.72.
- d) It is the responsibility of each licensee to notify the Division of any change of address or email address of record. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to renew.
- e) Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 9 of the Act, except as set forth in Section 17.2 of the Act.

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(Source: Amended at 44 Ill. Reg. 184, effective January 3, 2020)

Section 1420.85 Inactive Status

- a) A licensed or registered CPA who notifies the ~~Division~~Department, on forms provided by the Department, may place the license or registration on inactive status and shall be excused from paying renewal fees until he or she notifies the Department in writing of the intention to resume active practice under the restoration provisions in Section 1420.60.
- b) Any person violating Section 17.2(d), (e) or (f) of the Act shall be considered to be practicing without a license or registration and shall be subject to the disciplinary provisions of the Act.

(Source: Amended at 44 Ill. Reg. 184, effective January 3, 2020)

Section 1420.110 Granting Variances

~~a)~~The Director may grant variances from this Part in individual cases when~~where~~ he/she finds that:

- ~~a1)~~ The provision from which the variance is granted is not statutorily mandated;
- ~~b2)~~ No party will be materially injured by the granting of the variance; and
- ~~c3)~~ The rule from which the variance is granted would, if applied in the particular case, be unreasonable or unnecessarily burdensome.
- b) ~~The Director shall notify the Public Accountant Registration Committee of the granting of such variance, and the reasons therefor, at the next meeting of the Committee.~~

(Source: Amended at 44 Ill. Reg. 184, effective January 3, 2020)

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- 1) Heading of the Part: Real Estate Appraiser Licensing
- 2) Code Citation: 68 Ill. Adm. Code 1455
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1455.10	Amendment
1455.100	Amendment
1455.160	Amendment
1455.240	Amendment
- 4) Statutory Authority: Implementing and authorized by the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].
- 5) Effective Date of Rules: December 23, 2019
- 6) Does this rule contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Division of Real Estate and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 43 Ill. Reg. 10260; September 20, 2019
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: Though there were no public comments for the proposed rulemaking during the First Notice period, the Department did amend Sections 1455.10 (in the "USPAP" definition), 1455.100 (c), and 1455.240 (a) only to correct the dates to reflect the most current edition of USPAP, published biennially by the Appraisal Standards Board of The Appraisal Foundation, as soon as possible after publication of the new edition in November. Sections 1455.100 and 1455.240 were not amended in the proposed version but upon publication of the proposed rulemaking, the Department noticed that in order to properly address correct and update USPAP, those two Sections needed to be amended. The street address of the Foundation has also been updated in Sections 1455.10 and 1455.100.

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- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rules currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This adopted rulemaking represents a re-alignment of renewal dates and continuing education completion dates for licenses real estate appraisers. Historically, these dates have been coterminous; however, a recent amendment to the rules effectively bifurcated those dates and resulted in confusion on the part of licensed real estate appraisers. This adopted rulemaking conforms Illinois' continuing education completion dates to the criteria established by the Appraisal Subcommittee ("ASC"). The ASC had previously raised concerns about the recent amendments promulgated by the prior administration, and so the Department proposed this change with a goal of bringing more clarity to the timeline within which licensed real estate appraisers must satisfy continuing education requirements. Additionally, the adopted changes will help to streamline the process of continuing education audits, which are required by the ASC.
- 16) Information and questions regarding these adopted rules shall be directed to:

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

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

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

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1455

REAL ESTATE APPRAISER LICENSING

SUBPART A: DEFINITIONS

Section
1455.10 Definitions

SUBPART B: LICENSING REQUIREMENTS

Section
1455.100 Application for a State Certified General Real Estate Appraiser License and a State Certified Residential Real Estate Appraiser License; Application for an Associate Real Estate Trainee Appraiser License; Application by Non-Resident for Licensure by Endorsement

1455.110 Application for Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License; Late Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License; Reinstatement of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License; Application for Military Deferral; Expiration Date

1455.120 Conversion of a State Licensed Real Estate Appraiser License to an Associate Real Estate Appraiser License; Late Conversion; No Issuance of State Licensed Real Estate Appraiser License (Repealed)

1455.130 Application for Temporary Practice Permit; Term of Permit; Scope of Practice; Regulatory Responsibility; Notice

1455.140 Issuance of Certificate to Real Estate Appraisers; Temporary Practice Permits

SUBPART C: EDUCATION REQUIREMENTS

Section
1455.150 Qualifying Education Requirements; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real

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- Estate Trainee Appraiser; Non-Resident Qualifying Education; In Lieu of Requirements; Foreign Degrees
- 1455.160 Continuing Education Requirements for State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, and Associate Real Estate Trainee Appraiser; Non-Resident Continuing Education Approval

SUBPART D: EXPERIENCE REQUIREMENTS

Section

- 1455.170 Experience Requirements for a State Certified General Real Estate Appraiser License
- 1455.180 Experience Requirements for a State Certified Residential Real Estate Appraiser License
- 1455.190 Verification of Experience Credit
- 1455.195 Acceptable Experience Credit and Request for Reconsideration
- 1455.200 Acceptable Appraisal Experience Credit

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

Section

- 1455.205 Record Keeping Requirements
- 1455.210 Notification of Name Change
- 1455.220 Assumed Name
- 1455.230 Address Change
- 1455.240 Uniform Standards of Professional Appraisal Practice (USPAP)
- 1455.245 Scope of Property Condition Inspections by Real Estate Appraisers

SUBPART F: ENFORCEMENT PROVISIONS

Section

- 1455.250 Appraiser Responsibilities as Relating to Appraisal Management Companies
- 1455.260 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan
- 1455.270 Additional Education; Reporting Requirements
- 1455.280 Administrative Warning Letter
- 1455.290 Cooperation Required with the Division
- 1455.300 Felony Convictions; Discipline of Other Professional License; Notification
- 1455.310 Unprofessional Conduct
- 1455.315 Supervisor and Trainee Requirements (Repealed)

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1455.316 Supervisor and Trainee Requirements

SUBPART G: ADMINISTRATIVE PROVISIONS

Section

1455.320 Fees
1455.330 Granting of Variances
1455.335 Refusal to Issue an Appraiser License Based on Criminal History Record
1455.340 Duties of the Secretary
1455.345 IDFPR Coordinator of Real Estate Appraisal

SUBPART H: EDUCATION PROVIDER AND COURSE PROVISIONS

Section

1455.350 Education Provider Application; Requirements
1455.355 USPAP Course Titles
1455.360 Qualifying Education Course Requirements of Education Providers
1455.365 Practicum Course Requirements
1455.370 Qualifying Course Curriculum; State Certified General Real Estate Appraiser;
State Certified Residential Real Estate Appraiser; Associate Real Estate Trainee
Appraiser
1455.375 Prerequisite Education Course – Supervisor-Trainee Course
1455.380 Instructors for the Supervisor-Trainee Conditional Education Course
1455.390 Continuing Education Course Requirements of Education Providers
1455.400 Curriculum for Continuing Education Courses; Continuing Education Credit for
Participation Other Than as a Student
1455.410 Distance Education
1455.420 Expiration Date and Renewal for Education Providers and Qualifying Education
and Continuing Education Courses
1455.430 Continuing Education Reporting
1455.440 Transcript or Certificate of Completion
1455.445 Grounds for Education Provider Discipline

SUBPART I: TRANSITION PROVISIONS

Section

1455.450 Appraiser Applicants – Transition Provisions (Repealed)
1455.460 Education Providers, Pre-License and Continuing Education Courses – Transition
Provisions (Repealed)

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SUBPART J: HEARINGS

Section

- 1455.470 Applicability (Repealed)
1455.480 Administrative Law Judges (Repealed)
1455.490 Disqualification of an Administrative Law Judge (Repealed)
- 1455.APPENDIX A Caption for a Case Filed by the Division (Repealed)
1455.APPENDIX B Caption for a Case Filed by the Petitioner (Repealed)

AUTHORITY: Implementing and authorized by the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].

SOURCE: Emergency rules adopted at 16 Ill. Reg. 16196, effective September 30, 1992, for a maximum of 150 days; rules adopted at 17 Ill. Reg. 1589, effective January 26, 1993; emergency amendment at 17 Ill. Reg. 6668, effective April 19, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13494, effective July 30, 1993; amended at 18 Ill. Reg. 2379, effective January 28, 1994; emergency amendment at 18 Ill. Reg. 3006, effective February 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8428, effective May 24, 1994; amended at 19 Ill. Reg. 9176, effective June 26, 1995; emergency amendment at 19 Ill. Reg. 12503, effective August 16, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16604, effective December 1, 1995; amended at 20 Ill. Reg. 6488, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 1685, effective January 27, 1997; amended at 21 Ill. Reg. 5538, effective April 18, 1997; emergency amendment at 22 Ill. Reg. 4132, effective February 4, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998, for a maximum of 150 days; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12979, effective July 1, 1998, for a maximum of 150 days; new Part adopted by emergency rulemaking at 22 Ill. Reg. 13011, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20815, effective November 20, 1998; old Part repealed at 26 Ill. Reg. 10883 and new Part adopted by emergency rulemaking at 26 Ill. Reg. 10844, effective July 1, 2002, for a maximum of 150 days; old Part repealed at 26 Ill. Reg. 17689 and new Part adopted at 26 Ill. Reg. 17692, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 14653, effective August 29, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 824, effective December 29, 2003; amended at 29 Ill. Reg. 16445, effective October 13, 2005; amended at 31 Ill. Reg. 4741, effective March 9, 2007; amended at 33 Ill. Reg. 7121, effective May 14, 2009; amended at 35 Ill. Reg. 1967, effective January 20, 2011; amended at 35 Ill. Reg. 19505, effective November 17, 2011;

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amended at 37 Ill. Reg. 2668, effective April 1, 2013; amended at 37 Ill. Reg. 19189, effective December 31, 2013; amended at 38 Ill. Reg. 5887, effective February 24, 2014; amended at 39 Ill. Reg. 7939, effective June 1, 2015; amended at 41 Ill. Reg. 12583, effective October 6, 2017; amended at 42 Ill. Reg. 6386, effective March 23, 2018; amended at 42 Ill. Reg. 21599, effective November 26, 2018; amended at 44 Ill. Reg. 210, effective December 23, 2019.

SUBPART A: DEFINITIONS

Section 1455.10 Definitions

Unless otherwise clarified by this Part, definitions set forth in the Act also apply for the purposes of this Part.

"Act" means the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].

"Applicant" means a person applying for licensure under this Act as a State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, or Associate Real Estate Trainee Appraiser. Any applicant or any person who holds himself or herself out as an applicant is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act [5 ILCS 100].

"Appraisal management company" means any corporation, limited liability company, partnership, sole proprietorship, subsidiary, unit, or other business entity that directly or indirectly performs the following appraisal management services:

administers networks of independent contractors or employee appraisers to perform real estate appraisal assignments for clients;

receives requests for real estate appraisal services from clients and, for a fee paid by the client, enters into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request; or

otherwise serves as a third-party broker of appraisal management services between clients and appraisers- [225 ILCS 459/10].

"AQB" means the Appraiser Qualification Board of the Appraisal Foundation.

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"Board" means the Real Estate Appraisal Administration and Disciplinary Board.

~~"CE Completion Deadline" means June 30 of each odd-numbered year.~~

"Classroom hour" or "hour" as it pertains to the education requirements means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through a distance education program approved by the Division.

"Client" means the party or parties who engage an appraiser, by employment or contract, in a specific assignment. If an appraisal management company is the party engaging the appraiser, the appraisal management company is considered the client.

"Continuing education" or "CE" means education that is creditable toward the education requirements that must be satisfied to renew licensure or certification, as set forth in Section 1455.160.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Real Estate.

"Division" means the Department of Financial and Professional Regulation-Division of Real Estate.

"Experience/work log" means the form described in Section 1455.190 that verifies an appraiser's experience and work history.

"Extraordinary assumption" means a specifically labeled assumption, directly related to a specific assignment that, if found to be false, could alter the appraiser's opinions or conclusions.

"Hypothetical condition" means a condition that is specifically stated to be contrary to what exists, but is supposed to exist for the purpose of analysis.

"Jurisdictional exception" means an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP.

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"License" means a certificate of authority, permit or registration issued by the Division.

"Licensee" means a person who has been issued a license under the Act or this Part. Anyone who holds himself or herself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Master agreement" means a written service agreement between a traditional client and a real estate appraiser, appraisal firm, appraisal management company or panel of approved appraisers.

"Non-traditional client" means the Division or an approved practicum course provider.

"Practicum course instructor" means a Certified Residential Appraiser or a Certified General Appraiser in good standing with the Division who is authorized to conduct an approved practicum course.

"Prerequisite education" means any education course that does not meet AQB requirements under qualifying education but is necessary prior to being issued an Illinois appraiser credential as an Associate Real Estate Trainee Appraiser.

"Qualifying education" means education that is creditable toward the requirements set forth in Section 1455.150.

"Quantitative experience" means actual time spent on the appraisal process.

"Real Property Appraiser Qualification Criteria" (effective May 1, 2018, no later amendments or editions), published by the Appraiser Qualifications Board of The Appraisal Foundation, 1155 15th Street, NW, Suite 1111, Washington DC 20005.

"Renewal Deadline" means September 30 of each odd-numbered year.

"Required core curriculum" means a set of appraisal subject matter major headings known as modules that requires a specified number of educational hours at each credential level. (See 225 ILCS 458/5-10(a)(5).)

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"Residential" means composed of 1 to 4 residential units.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Traditional client" means a client who hires an appraiser to complete an assignment by employment or contract for business purposes.

"True copy" means a photocopy or an electronic copy of the entire report transmitted to the client.

"USPAP" means the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board pursuant Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 3331 et seq.) published biennially by the Appraisal Standards Board of The Appraisal Foundation, [1325 G Street N.W., Suite 500](#)~~1155 15th Street N.W., Suite 1111~~, Washington DC 20005 (effective January 1, ~~2020~~~~2018~~ through December 31, ~~2021~~~~2019~~, no later amendments or editions).

"Waiver valuation" means a specific valuation product utilized by the Illinois Department of Transportation, under Section 5-5(e-5) of the Act, to establish a basis for determining just compensation.

"Waiver valuator" means an employee of the Illinois Department of Transportation, a registered county or municipal engineer, or a municipal employee who is permitted to complete or co-sign a waiver valuation, not to exceed \$10,000, prepared in accordance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601-4655) or prepared pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs regulations (49 CFR 24).

"Work-file" means documentation necessary to support an appraiser's analyses, opinions and conclusions, including, but not limited to, the name of the client and the identity, by name or type, of any other intended users; true copies of any written reports, documented on any type of media; summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and all other data, information and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with

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USPAP, or references to the locations of other documentation. A work-file in support of a Restricted Use or Restricted Appraisal Report must be sufficient for the appraiser to produce an Appraisal Report.

"Web Form" means a web page that allows a user to enter data that is sent to a server for processing.

"Written Engagement" means a defined relationship between a real estate appraiser or appraisers and the client. It states the terms, conditions and scope of the appraisal service request, including but not limited to compensation.

(Source: Amended at 44 Ill. Reg. 210, effective December 23, 2019)

SUBPART B: LICENSING REQUIREMENTS

Section 1455.100 Application for a State Certified General Real Estate Appraiser License and a State Certified Residential Real Estate Appraiser License; Application for an Associate Real Estate Trainee Appraiser License; Application by Non-Resident for Licensure by Endorsement

- a) Each applicant for a State Certified General Real Estate Appraiser License and a State Certified Residential Real Estate Appraiser License shall submit to the Division:
 - 1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - 2) The fee required by Section 1455.320;
 - 3) Proof of successful completion of the qualifying education requirements as provided by Section 1455.150;
 - 4) A score report/application that provides proof of successful completion of the qualifying education and experience requirements as provided by Subparts C and D;
 - 5) Proof of successful completion of the examination authorized by the Division and endorsed by the AQB; and

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- 6) Satisfactory completion of a criminal background check, as required by Section 5-22 of the Act.
- b) Each applicant for an Associate Real Estate Trainee Appraiser License shall submit to the Division:
- 1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - 2) The fee required by Section 1455.320;
 - 3) Proof of successful completion of the qualifying education requirements within 5 years prior to initial application, as provided by Subpart C;
 - 4) A score report/application that provides proof of successful completion of the examination authorized by the Division;
 - 5) Proof of successful completion of any required conditional education offering; and
 - 6) Satisfactory completion of a criminal background check, as required by Section 5-22 of the Act.
- c) Each non-resident applicant for a State Certified General Real Estate Appraiser license or a State Certified Residential Real Estate Appraiser license applying by endorsement shall submit to the Division:
- 1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;
 - 2) The fee required by Section 1455.320;
 - 3) A certification of good standing from the jurisdiction of the applicant's place of residence or by a search by the Division of the Appraisal Subcommittee's (ASC) National Registry history that may be obtained from the ASC at [1325 G Street N.W., Suite 500](https://www.asc.gov)~~1401 H Street N.W., Suite 760~~, Washington DC 20005 or at its website at www.asc.gov; and
 - 4) Satisfactory completion of a criminal background check, as required by

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Section 5-22 of the Act.

(Source: Amended at 44 Ill. Reg. 210, effective December 23, 2019)

SUBPART C: EDUCATION REQUIREMENTS

Section 1455.160 Continuing Education Requirements for State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, and Associate Real Estate Trainee Appraiser; Non-Resident Continuing Education Approval

- a) CE Credit
- 1) A State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, or Associate Real Estate Trainee Appraiser who makes application to renew his or her real estate appraiser license shall successfully complete the equivalent of 14 hours of approved continuing education per year preceding the renewal, e.g., a total of 28 hours of approved continuing education for a 2-year renewal. Continuing education credit will only be accepted from education providers and courses approved by the Division.
 - 2) If a real estate appraiser was issued an initial license for less than 185 days prior to the expiration of the license, then no continuing education is required for that renewal. If a real estate appraiser has held a license 185 days or more prior to the expiration, then 14 hours of approved continuing education is required for that year. An additional 14 hours of CE is required for the following year, pursuant to subsection (a)(1).
 - 3) A real estate appraiser must complete the 7-hour National USPAP Update Course or its equivalent as determined by the AQB or an alternate method established by the AQB taught by an AQB certified instructor who also ~~holds~~ holds a current appraiser certification by a state during each pre-renewal period prior to renewing or converting his or her real estate appraiser license, unless the real estate appraiser was issued his or her initial license for a period of less than 185 days prior to the expiration date. A real estate appraiser must complete the 7-hour National USPAP Update Course or its equivalent by June 30 of an even-numbered year, following the release of USPAP. Those real estate appraisers issued a license more than 6 months after the effective date of USPAP shall

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complete the 7-hour National USPAP Update Course within 6 months after licensure.

- 4) Pursuant to 1455.320(g)(7), the ~~Division~~Department, at its discretion, may assess an administrative fee at a rate of \$100 per credit hour for CE courses completed after the ~~Renewal Deadline~~deadline. The administrative fee shall not exceed \$2,000.
- 5) ~~Beginning in 2019, and for each renewal thereafter, a licensee seeking renewal shall complete CE by the June 30 CE Completion Deadline. The Division shall conduct audits to verify compliance with this Section. If, during an audit, the Division determines that a licensee may be deficient in complying with CE requirements, the Division may notify the licensee of the possible deficiency. The licensee shall have until the September 30 Renewal Deadline to submit to the Division evidence of compliance with CE requirements.~~
 - A) If satisfactory evidence of compliance with CE requirements is submitted by the ~~September 30~~Renewal Deadline that indicates that the licensee complied with the CE requirements set forth in subsection (a)(1) or (2), and subsection (a)(3)~~June 30 CE Completion Deadline~~, the Division will process the licensee renewal.
 - B) ~~If the licensee cannot submit evidence of having been in compliance with CE requirements by the June 30 CE Completion Deadline, the licensee shall have until the September 30 Renewal Deadline to submit evidence of having attained compliance with CE requirements by completing courses offered after the June 30 CE Completion Deadline. The evidence of course completion must be accompanied by an administrative fee of \$100 per credit hour for courses completed after the June 30 CE Completion Deadline. The administrative fee shall not exceed \$2,000. The evidence will not be considered if the required fee is not submitted. If the evidence is satisfactory, the Division will process a license renewal. Credit hours taken or submitted after the June 30 CE Completion Deadline in satisfaction of a CE deficiency may not be used as credit for the next renewal period.~~

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- ~~B)C)~~ If the licensee submits an application for renewal and fails to submit satisfactory evidence of compliance with CE requirements; ~~or fails to pay any administrative fee~~ by the ~~September 30~~ Renewal Deadline, the failure shall be evidence of a violation of Section 1455.310(e) regarding unprofessional conduct in applying for renewal of, or to procure, a license, and as set forth in Section 15-10 of the Act. The Division shall send notice to the licensee, indicating the commencement of disciplinary proceedings that may result in public discipline.
- b) CE Credit from Another Jurisdiction
The Division may accept evidence of successful completion of continuing education credit from another jurisdiction if that jurisdiction's requirements are substantially the same as the State of Illinois' and meet the recommendations of the AQB, and if the credit was earned and submitted by the ~~Renewal June 30 CE Compliance~~ Deadline. A real estate appraiser who wishes to obtain credit for continuing education courses not licensed by the Division shall submit to the Division:
- 1) An application provided by the Division requesting approval for continuing education credit, signed by the applicant, on which all questions are answered;
 - 2) A certificate of successful completion provided by the education provider or a certification by the jurisdiction of the appraiser's place of residence of successful completion of the requested continuing education credit; and
 - 3) The fee required by Section 1455.320.
- c) CE Requirements Regarding Renewal, Restoration or Reinstatement
Prior to returning to active status, a licensee not authorized to practice must complete all required CE hours that would have been required if the licensee was in an active status. The required hours must also include the current 7-hour National USPAP Update Course or its equivalent. The license will not be restored to active status unless and until all requirements of this Part are met.

(Source: Amended at 44 Ill. Reg. 210, effective December 23, 2019)

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

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Section 1455.240 Uniform Standards of Professional Appraisal Practice (USPAP)

- a) Pursuant to Section 10-10 of the Act, the ~~2020-2021~~~~2018-2019~~ USPAP are hereby incorporated by reference with no later amendments or editions.
- b) All real estate appraisers licensed under the Act shall practice in accordance with USPAP except where the standards are contrary to Illinois law or public policy (USPAP, Jurisdictional Exception).
- c) All investigators, board members, auditors and examiners employed or retained by the Division are exempt from the requirements of USPAP Standard 3 while performing an investigation, audit or examination.
- d) If the Division files a formal complaint alleging violations of USPAP, a USPAP Standard 3 review shall be utilized by the Division at a formal hearing. The Division may limit the scope of the USPAP Standard 3 review to exclude valuation.

(Source: Amended at 44 Ill. Reg. 210, effective December 23, 2019)

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

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
140.412	Amendment
140.413	Amendment
140.440	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rules: December 23, 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 *Illinois Register*: 43 Ill. Reg. 5143; May 10, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: Changes and clarifications were made regarding: the number of recommendation letters required for non-genital surgeries; the requirement to live continuously in the gender role that is congruent with an individual's gender identity; the requirement for significant medical or mental health conditions (if present) to be reasonably well-controlled; the list of covered services by adding: "related therapies" and "all gender affirming surgeries, services and procedures that are medically necessary to treat a particular individual's gender dysphoria and listed on the Department's fee schedule and in the Practitioner Handbook"; the examples of non-covered services list, which is now removed; surgeries performed for the purpose of treating gender dysphoria and result in sterilization are considered therapeutic sterilizations under this Section; and payment for gender-affirming surgeries, services and procedures for patients under 21 years of age will be made in specific cases if medical necessity is demonstrated and prior approval is received.

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
140.75	New Section	43 Ill. Reg 12000; October 25, 2019
140.80	Amendment	43 Ill. Reg 12000; October 25, 2019
140.88	New Section	43 Ill. Reg 12000; October 25, 2019
140.402	Amendment	43 Ill. Reg 12000; October 25, 2019

- 15) Summary and Purpose of Rulemaking: These amendments remove transsexual surgery from the list of physician services not covered and describe the prior approval requirements for gender affirming surgeries, services, and procedures under the medical assistance program.
- 16) Information and questions regarding these adopted rules shall be directed to:

Steffanie Garrett
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

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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

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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)

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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
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- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
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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].

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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; preemptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; preemptory 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; preemptory 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; preemptory 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; amended at 43 Ill. Reg. 5706, effective May 2, 2019; amended at 43 Ill. Reg. 6736, effective May 28, 2019;

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emergency amendment at 43 Ill. Reg. 12093, effective October 15, 2019, for a maximum of 150 days; amended at 44 Ill. Reg. 226, effective December 23, 2019.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.412 Services Not Covered By Physicians

Services for which medical necessity is not clearly established are not covered in the Medical Assistance Program. Additionally, the following services are specifically excluded from coverage and payment cannot be made by the Department for the provision of these services.

- a) Experimental medical or surgical services.
- b) Acupuncture.
- c) Investigational and research oriented procedures.
- d) Artificial insemination.
- e) ~~Transsexual surgery.~~
- ef) Services prohibited by Illinois or Federal statute.
- fg) Services provided in Federal or State institutions.
- gh) Medical care provided by mail or telephone.
- hi) Unkept appointments.
- ij) Autopsy examinations.
- jk) Preparation of routine records, forms and reports.
- kl) Cosmetic procedures, medical or surgical, where projected results do not relieve a physical or functional handicap.

(Source: Amended at 44 Ill. Reg. 226, effective December 23, 2019)

Section 140.413 Limitation on Physician Services

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- a) When provided in accordance with the specified limitations and requirements, the Department shall pay for the following services:
- 1) Termination of 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.
 - 2) Sterilization
 - 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

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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 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
- 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

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International Classification of Diseases (ICD-9-CM) or, upon implementation, International Classification of Diseases, 10th 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;

- 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;
- iii) the group size does not exceed 12 patients, regardless of payment source;
- iv) the minimum duration of a group session is 45 minutes;
- 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;
- 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;
- 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 [of 2013](#) [210 ILCS [4948](#)].

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- 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 transfer, or when there is no comparable facility in the area.
- 8) Maternity 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 409 12th Street, S.W., Washington D.C. 20024-2188, or at <https://www.acog.org>.
- 9) Physician Services to Children under Age 21

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- 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;
 - 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;
 - iii) is employed by or affiliated with a Federally Qualified Health Center;
 - iv) is a member of the National Health Service Corps;
 - 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;
 - 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 of subsection (a)(9)(A); 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).

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- 10) Hysterectomy. 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. Includes:
 - A) tonsillectomies or adenoidectomies;
 - B) hemorrhoidectomies;
 - C) cholecystectomies;
 - D) disc surgery/spinal fusion;
 - E) joint cartilage surgery/meniscectomies;
 - F) excision of varicose veins;
 - G) submucous resection/rhinoplasty/repair of nasal system;
 - H) mastectomies for non-malignancies; and
 - I) 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.

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- 12) Mammography Screening and Related Services. Described in 305 ILCS 5/5-5.
- 13) Pap Tests and 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.
 - 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

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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).

16) Gender-affirming Surgeries, Services and Procedures

A) Gender-affirming surgeries, services and procedures are covered only with prior approval by the Department for individuals who are 21 years of age or older. In order for prior approval to be granted for genital surgeries, letters from two qualified medical providers must be submitted, including one from a Licensed Practitioner of the Healing Arts (LPHA), as defined in Section 140.453(b)(3)(A) through (D) and (F), and one from either the individual's primary care physician or the physician managing the individual's gender-related healthcare. In order for prior approval to be granted for non-genital surgeries, one letter from either the individual's primary care physician or the physician managing the individual's gender-related healthcare must be submitted. The qualified medical provider or providers must have independently assessed the individual and must be referring the individual for the surgery. Together, the letter or letters must establish:

i) That the individual:

- has a diagnosis of gender dysphoria;
- has received hormone therapy appropriate to the individual's gender goals, which shall be for a minimum of 12 months in the case of an individual seeking genital surgery, unless that therapy is medically contraindicated or the individual is otherwise unable to take hormones;
- has lived continuously for at least 12 months in the gender role that is congruent with their gender

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identity, in the case of an individual seeking genital surgery;

- has completed an assessment by an LPHA, as defined in Section 140.453(b)(3)(A) through (D) and (F), which must include education and counseling of treatment options and implications; and psychotherapy, if indicated;
- if a significant medical or mental health condition is present that would be a contraindication to the gender-affirming surgery, service or procedure, it must be reasonably well-controlled; and
- has the capacity to make a fully informed decision and to consent to the treatment;

ii) That the medical provider has communicated with the individual's other medical providers regarding the proposed surgery, service or procedure;

iii) The medical necessity of the surgery, service or procedure; and

iv) Recommendations for post-operative care.

B) The Department will cover all gender-affirming surgeries, services and procedures that are medically necessary to treat a particular individual's gender dysphoria and are listed on the Department's fee schedule and in the Practitioner Handbook. Gender-affirming surgeries, services and procedures shall include, but are not limited to, breast/chest surgeries, genital surgeries, and related therapies.

C) If prior approval is for genital surgery, the surgery must be performed by a urologist, gynecologist, or plastic or general surgeon who is board-certified in the practitioner's area of expertise and has demonstrated specialized competence in gender-based genital reconstruction as indicated by documented

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supervised training or post-graduate training in the field of gender-based genital reconstruction.

D) Surgeries resulting in sterilization must meet all requirements of subsection (a)(2); surgeries performed for the purpose of treating gender dysphoria are considered therapeutic sterilizations for purposes of this Section.

E) Notwithstanding the age limitation in subsection (a)(16)(A), payment for gender-affirming surgeries, services and procedures for patients under 21 years of age will be made in specific cases if medical necessity is demonstrated and prior approval is received.

- 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 44 Ill. Reg. 226, effective December 23, 2019)

Section 140.440 Pharmacy Services

- a) Payment shall be made only to pharmacies.
- b) The following conditions apply to pharmacy participation:
- 1) The pharmacy must hold a current Drug Enforcement Administration (DEA) registration issued by the United States Drug Enforcement Administration (see 21 CFR 1301 et seq.), as well as a current controlled substances license issued by the Illinois Department of Financial and Professional Regulation (see Controlled Substances Act [720 ILCS 570]) prior to enrolling with the Department.
 - 2) Licensed Pharmacy Requirements
 - A) A licensed pharmacy located in and/or administratively associated with a group practice or long-term facility must:

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- i) provide the same scope of general pharmacy and professional services as a pharmacy not so affiliated; and
 - ii) be retail in nature, open and accessible to the general public.
- B) The pharmacy shall not limit prescriptions filled to those written by practitioners connected with the group or facility for persons receiving care or services from the group or facility.
- 3) A hospital pharmacy that provides pharmaceutical services and supplies for inpatients, outpatient clinic patients and emergency room patients of the hospital may not enroll as a participating pharmacy unless licensed to provide pharmaceutical services to the general public (Division 5 license).
- 4) Effective August 1, 2012, in order to dispense blood factor, a pharmacy must sign a standards of care agreement with the Department.
- 5) A pharmacy billing the Department for 340B-purchased drugs shall charge the Department no more than its actual acquisition cost (AAC) for the drug product plus the Department's established dispensing fee, unless the Department has calculated an allowable amount specific to 340B-purchased drugs for that drug. In that case, the pharmacy may bill the Department its usual and customary charges. For a pharmacy provider owned or operated by a Hemophilia Treatment Center, this requirement does not become effective until July 1, 2013.
- c) The Department shall pay for the dispensing of pharmacy items, subject to the provisions of subsection (d) and Section 140.443, which are prescribed by a physician, dentist or podiatrist within the scope of their professional practice.
- d) Beginning with drugs dispensed on or after April 1, 1991, Department coverage shall be limited to those drug manufacturers having rebate agreements in effect as provided under ~~section~~Section 1927 of Title XIX of the Social Security Act (42 USC 1396s). The Department shall provide all interested parties with an updated list of drug manufacturers having rebate agreements in effect.
- e) The Department may require approval for the reimbursement of any drug except as provided in Section 140.442. When reviewing requests for prior authorization,

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approval decisions shall be medically based. The Department's electronic claims processing system shall be the mechanism for identification of whether a prescribed drug requires prior authorization to dispensing pharmacists. A printed listing of prescribed drugs available without prior approval shall be provided to other interested parties upon request.

- f) An approved request does not guarantee payment. The recipient for whom the services/items are approved must be eligible at the time they are provided. In addition, a valid, current prescription for the requested medication must be on file and maintained by the pharmacy in accordance with the Pharmacy Practice Act ~~of 1987~~ [225 ILCS 85].
- g) For purposes of Sections 140.440 through 140.448, pertaining to reimbursement for drugs, the following definitions apply:
- 1) Nursing facility means any facility that provides medical group care services as defined in Section 140.500.
 - 2) Generic drug means those legend drugs that are multiple source drugs marketed or sold by two or more labelers, marketed or sold by the same labeler under two or more different proprietary names or marketed both under a proprietary name and without such a name.
 - 3) Brand name drug means single-source innovator drugs and innovator multiple-source drugs when prior authorization has been obtained for reimbursing the innovator product.
- h) The Department will cover hormone therapy, whether or not in preparation for gender-affirming surgery, in accordance with Section 140.442.

(Source: Amended at 44 Ill. Reg. 226, effective December 23, 2019)

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Mistake in Benefit under Article 3 and Article 4 Pensions
- 2) Code Citation: 50 Ill. Adm. Code 4450
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
4450.10	New Section
4450.20	New Section
4450.30	New Section
4450.40	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 3-144.2 and 4-138.10 of the Illinois Pension Code [40 ILCS 5/3-144.2 and 40 ILCS 5/4-138.10].
- 5) Effective Date of Rules: December 23, 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 of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 43 Ill. Reg. 6242; May 31, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

Second line of the Table of Contents, changed "Applicability" to "Prescribed Interest Rate".

Section 4450.20 header, changed "Applicability" to "Prescribed Interest Rate".

Section 4450.20, before the first sentence added "This prescribed interest rate shall only apply to a benefit (and all subsequent benefits) that was mistakenly set too low if the first benefit is or was set on or after August 26, 2014."; third line, changed "2%" to "1%"; deleted lines 4-7.

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Section 4450.30, in the seventh line of the definition of "Lump Sum", changed "2%" to "1%".

- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: PA 98-1117, effective August 26, 2014, in 40 ILCS 5/3-144.2(b) and 40 ILCS 5/4-138.10(b), directs the Public Pension Division to prescribe a rate of interest when the pension benefit payments were mistakenly set too low and apply that interest rate to the lump sum make-up payment to the pensioner. For downstate police and fire pension funds, this rule prescribes the interest rate to be applied.
- 16) Information and questions regarding these adopted rules shall be directed to:

Mark Thielen
Assistant General Counsel
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

217/558-4542

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER aaa: PENSIONS

PART 4450

MISTAKE IN BENEFIT UNDER ARTICLE 3 AND ARTICLE 4 PENSIONS

Section

4450.10	Purpose
4450.20	Prescribed Interest Rate
4450.30	Definitions
4450.40	Policy and Notification

AUTHORITY: Implementing and authorized by Sections 3-144.2 and 4-138.10 of the Illinois Pension Code [40 ILCS 5].

SOURCE: Adopted at 44 Ill. Reg. 261, effective December 23, 2019.

Section 4450.10 Purpose

This Part prescribes the annual interest rate payable by a pension fund when a benefit was mistakenly set too low and the process to be followed in rectifying the underpayment of benefits.

Section 4450.20 Prescribed Interest Rate

This prescribed interest rate shall only apply to a benefit (and all subsequent benefits) that was mistakenly set too low if the first benefit is or was set on or after August 26, 2014. The annual interest rate payable by an Article 3 or Article 4 pension fund is prescribed at 1% when a lump sum payment is made by a pension fund to the recipient pursuant to Sections 3-144.2(b) and 4-138.10(b) of the Illinois Pension Code when a benefit was mistakenly set too low.

Section 4450.30 Definitions

"Illinois Pension Code" or "Code" means 45 ILCS 5.

"Department" means the Illinois Department of Insurance.

"Lump Sum" means the one payment to the recipient by a pension fund when a benefit was mistakenly set too low. A lump sum payment shall consist of two

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amounts:

the difference between the mistakenly set too low benefit and the correct level benefit for each such benefit payment; and

the application of the prescribed 1% annual interest rate to the difference derived under this definition from the date of each mistakenly set too low benefit to the date of payment of the lump sum.

Section 4450.40 Policy and Notification

All Article 3 and Article 4 pension funds shall institute and maintain policies and procedures to discover and adjust any benefit that is set at an incorrect amount. Any pension fund that discovers and adjusts, if otherwise allowable by law, any benefit pursuant to this Part, shall notify the Public Pension Division of the Department, by mail, of that adjustment of benefit within 45 days after making the lump sum payment or adjustment. This notice shall contain the lump sum benefit payment amount, the interest portion of that amount, the dates and amounts of the incorrect benefits, the adjusted and corrected benefit amounts, the nature and description of the mistake, and the name of the recipient and pension fund.

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- 1) Heading of the Part: Liquor Control Act
- 2) Code Citation: 86 Ill. Adm. Code 420
- 3) Section Number: 420.80 Adopted Action:
Amendment
- 4) Statutory Authority: 235 ILCS 5/8-13
- 5) Effective Date of Rule: December 23, 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 principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 43 Ill. Reg. 9334; September 6, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were proposed 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 Rule: Executive Order No. 2003-9 transferred clerks, management and staff support, employees, and other resources from the State Commission to the Department of Revenue. PA 100-1050, effective July 1, 2019, supersedes Executive Order No. 2003-9. PA 100-1050 makes the Liquor Control Commission an independent commission with 3 commissioners and an Executive Director, all to be appointed by the Governor. The Liquor Control Commission is responsible for administering and enforcing the Liquor Control Act, except for Article VIII. The Department of Revenue remains responsible for administering and enforcing

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the taxes imposed in Article VIII. Because authority for administering the Act is vested in two agencies, Section 420.80 is being amended to allow representatives of the Liquor Control Commission to witness the destruction of alcoholic liquors. The rule is also being amended to allow Department of Revenue and Commission representatives to provide prior approval of destruction of alcoholic liquors, thus eliminating the need for a representative to be present to witness the actual destruction of the alcoholic liquor.

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

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 420
LIQUOR CONTROL ACT

Section

420.1	Purpose
420.5	Definitions
420.10	Gallonage Taxes
420.20	Claims to Recover Erroneously Paid Tax
420.30	Shipments of Alcoholic Liquors Out of Illinois
420.40	Non-Beverage Alcoholic Preparations and Compounds
420.50	Non-Beverage Users of Alcoholic Liquors
420.60	Act Does Not Apply
420.70	Tax Provisions of Act Do Not Apply
420.80	Monthly Return
420.90	Books and Records
420.100	Carriers
420.110	Sales to Governmental Bodies
420.120	Warehousing of Liquors
420.130	Non-Beverage User's Books and Records
420.140	Tax-Free Sales of Alcoholic Liquor for Use Aboard Ships Operating in Foreign Commerce Outside the Continental Limits of the United States

AUTHORITY: Implementing and authorized by Article VIII of the Liquor Control Act of 1934 [235 ILCS 5].

SOURCE: Filed and effective June 17, 1958; codified at 8 Ill. Reg. 17910; amended at 14 Ill. Reg. 18083, effective October 18, 1990; amended at 15 Ill. Reg. 3498, effective February 21, 1991; amended at 24 Ill. Reg. 8096, effective May 26, 2000; amended at 24 Ill. Reg. 14763, effective September 25, 2000; amended at 27 Ill. Reg. 830, effective January 3, 2003; amended at 28 Ill. Reg. 11914, effective July 27, 2004; amended at 39 Ill. Reg. 14701, effective October 22, 2015; amended at 42 Ill. Reg. 23160, effective November 29, 2018; amended at 44 Ill. Reg. 265, effective December 23, 2019.

Section 420.80 Monthly Return

- a) Requirement for Filing

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- 1) Each manufacturer and importing distributor of alcoholic liquor must file a return on the form approved and provided by the Department between the 1st and 15th day of each calendar month, covering transactions in alcoholic liquors during the preceding calendar month. Payment of the tax in the amount disclosed by the return shall accompany the return.
 - A) Voluntary Electronic Filing and Payment of Taxes. Beginning January 1, 2003, taxpayers may elect to file returns electronically under 86 Ill. Adm. Code 760. A taxpayer that elects to electronically file a return and accompanying schedules must also make payment through Electronic Funds Transfer as provided in 86 Ill. Adm. Code 750. Taxpayers who both timely pay tax by Electronic Funds Transfer and timely file returns and schedules electronically shall be entitled to a discount of 2% or \$2,000 per return, whichever is less.
 - B) Mandatory Electronic Payment of Taxes. *A taxpayer who has an annual tax liability of \$20,000 or more shall make all payments of that tax to the Department by electronic funds transfer.* [20 ILCS 2505/2505-210]
- 2) After a first return has been filed by any manufacturer or importing distributor, a return form will be mailed by the Department on or about the first day of each succeeding month to that manufacturer or importing distributor. However, it is the duty of each manufacturer and importing distributor to obtain forms, and failure to receive forms from the Department will not be an excuse for failing to file returns when and as required by the Act.
- 3) Each manufacturer or importing distributor is required to file a return for each month that his or her license is in full force and effect, irrespective of the fact that he or she may not have any tax liability to pay for that month.
- 4) In any case in which business is permanently discontinued, or when a stock of alcoholic liquors has been sold in bulk and the taxpayer has gone out of business, the taxpayer should immediately notify the Department of this fact, and upon a proper showing by the taxpayer that his or her license has been canceled by the Illinois Liquor Control Commission, he or she

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will be permitted to discontinue filing monthly returns.

- 5) In completing the Liquor Revenue Return form, the amount of liquor manufactured, rectified, blended or bottled during the month must be included on the return by manufacturers of alcohol and spirits and by first and second class winemakers. In the case of manufacturers of alcohol and spirits, this item shall include bottled alcoholic liquor produced by the manufacturer in Illinois and bulk alcoholic liquor for which a deduction is being claimed on any schedule accompanying the return. In the case of first and second class winemaking, this item shall include all wine (whether immediately bottled or not) produced by the winemaker in Illinois. Wineries that are licensed as manufacturers, but not as first or second class winemakers, do not report anything as manufactured, rectified, blended or bottled.
- b) Schedules Accompanying Return of Manufacturer or Importing Distributor of Alcoholic Liquor:
- 1) As part of the monthly return of a manufacturer or importing distributor of alcoholic liquor, and to be completed and filed supplementary to the return in specified instances, the Department requires the completion and filing of the schedules described in subsection (b)(2). The totals of the several columns on each of the schedules must be carried to the corresponding columns and entered on proper lines according to the schedule designation on the monthly tax return.
 - 2) In every instance in which a manufacturer or importing distributor is required, by any particular schedule, to make a report of alcoholic liquors manufactured, imported, stored on hand or held in warehouses, purchased or otherwise acquired, sold or otherwise transferred, used, bottled, blended, fortified or rectified by that person, the person shall, to comply with the provisions of the Act, also include in the appropriate schedule the alcoholic liquors manufactured, imported, stored on hand or held in warehouses, purchased or otherwise acquired, sold or otherwise transferred, used, bottled, blended, fortified or rectified by that person as agent for others.
 - A) Schedule "A" – Alcoholic Liquor Transactions. This schedule must be completed and filed monthly by each importing distributor who

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imports alcoholic liquors into this State. This schedule consists of a detailed itemization of the importations, and the importing distributor must include in it all importations of alcoholic liquors, regardless of whether the merchandise is imported in bond or out of bond. The mere fact that a warehouse acting as agent for the importing distributor receives the merchandise and issues a warehouse receipt does not relieve the importing distributor from reporting the transaction. All alcoholic liquors imported and stored in public or bonded warehouses, for the account of an importing distributor, must be reported by the importing distributor in this schedule at the time the alcoholic liquors are imported and receipt of the alcoholic liquors for the account of the importing distributor is acknowledged by the warehouse. This information may not be withheld until withdrawals of the alcoholic liquors from the warehouse are made. Items of this nature should be reported as importations into Illinois.

- B) Schedule "F" – Alcoholic Liquor Transactions. In this schedule, manufacturers of alcohol and spirits report only bottled alcoholic liquors purchased tax-free, including transfers in bond covered by the issuance, transfer or negotiation of warehouse receipts. All other manufacturers and importing distributors, however, must report tax-free purchases of both bottled and bulk alcoholic liquors in this schedule, including transfers in bond covered by the issuance, transfer or negotiation of warehouse receipts. Bottled alcoholic liquors purchased tax-free and stored in public or bonded warehouses for the account of a manufacturer of alcohol and spirits and all alcoholic liquors purchased tax-free and stored in public or bonded warehouses for the account of other manufacturers (such as wineries) and importing distributors, must be reported in this schedule at the time of purchase, and the report may not be withheld until the alcoholic liquors are withdrawn from the warehouse.
- C) Schedule "G" – Tax-Paid Inventory. This schedule must be completed by manufacturers and importing distributors who purchase tax-paid alcoholic liquors.
- D) Schedule "C" – Tax-Free Alcoholic Liquor Sales in Interstate

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Commerce and Foreign Trade. This schedule must be filed by manufacturers or importing distributors who claim deductions on the monthly return of gallonage of alcoholic liquors sold by them and shipped tax-free in interstate or foreign commerce, or delivered tax-free to ships for use outside the continental limits of the United States in foreign commerce as provided in Section 420.140. Manufacturers and importing distributors must include in the schedule bulk (as well as all other) alcoholic liquors shipped tax-free in interstate or foreign commerce, or delivered tax-free to ships for use outside the continental limits of the United States in foreign commerce as provided in Section 420.140.

- i) Each manufacturer who includes tax exempt sales of bulk alcoholic liquor in this schedule must verify that the quantity so sold has been included in the Liquor Revenue Return inventory.
 - ii) A separate Schedule "C" – Tax-Free Alcoholic Liquor Sales in Interstate Commerce and Foreign Trade must be filed covering shipments into each state.
- E) Schedule "B" – Tax-Free Sales of Alcoholic Liquors to Other Illinois-Licensed Manufacturers and Importing Distributors. This schedule must be filed by Illinois manufacturers or importing distributors, if the product is manufactured outside of Illinois, who sell alcoholic liquors tax-free to other licensed manufacturers or importing distributors in Illinois. Each manufacturer, who includes in this schedule tax-free sales of bulk alcoholic liquors, must verify that the quantity so sold has been included in the Liquor Revenue Return inventory. Manufacturers and importing distributors must include in this schedule tax-free sales and transfers of alcoholic liquors in bond, including alcoholic liquors covered by original, transferred or negotiated warehouse receipts.
- F) Schedule "E" – Tax-Free Alcoholic Liquor Sales for Non-Beverage Purposes. This schedule must be filed by manufacturers and importing distributors who claim deductions on the monthly return for tax-free sales of alcoholic liquors made to holders of non-beverage user's licenses. Original permits or coupons

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permitting the tax-free purchase of alcoholic liquors for non-beverage purposes must accompany this schedule. This schedule must also be filed by manufacturers and importing distributors who claim deductions on the monthly return for tax-free sales of alcoholic liquors to the United States or to a foreign government, their departments, agencies or instrumentalities, for non-beverage purposes. Each manufacturer, who includes in this schedule sales of bulk alcoholic liquors, must verify that the quantity so sold has been included in the Liquor Revenue Return inventory. Sales of wine for sacramental purposes must be reported as sales for non-beverage purposes. The seller should keep in its books and records certifications covering each delivery, and statements signed by the minister, priest or rabbi, showing the quantity of wine in each delivery together with a statement that the wine will be used only for sacramental purposes (see Section 420.70 of this Part).

- G) Schedule "J" – Report of Alcoholic Liquors Lost, Destroyed, or Damaged During Production and Bottling. Losses incurred during production and bottling alcoholic liquors carried in inventory on the Liquor Revenue Return at the time when the bottling loss occurs must be listed on this schedule. Bottling losses will not be allowed as tax exempt unless accurate records are maintained and the deduction on the return is supported by this schedule.
- H) Schedule for "Other Illinois Liquor Tax Deductions". This schedule should be used when manufacturers or importing distributors claim deductions on the monthly return for a gallonage of alcoholic liquors that may not be properly addressed by any of the other schedules supplied by the Department. Deductions claimed should be explained in detail and filed with the monthly return. Claimed exemptions from the tax will not be allowed at the time of audit unless supported by competent documentary evidence. For example, if alcoholic liquors are dumped for the purpose of destroying the alcoholic liquors, claimed exemption from the tax will not be allowed unless supported by an affidavit of a Department [or Liquor Control Commission](#) representative who [either](#) witnessed the destruction of the alcoholic liquors [or](#) [provided approval prior to destruction of the alcoholic liquors.](#)

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The licensee should retain a copy of the affidavit. Each manufacturer, who includes in this schedule sales of bulk alcoholic liquors, must verify that the quantity so sold has been included in his Liquor Revenue Return inventory.

- I) Schedule "D" – Tax-Free Bulk Purchases Used in Rectification, Bottling and Blending. This schedule must be filed by manufacturers of alcohol and spirits, and will consist of a detailed itemization of all purchases of alcoholic liquors in bulk only, to be used in rectification, bottling or blending, or for sale in original containers, with respect to which the Illinois Alcoholic Liquor Tax has not been paid. All purchases of bulk alcoholic liquors must be included in this schedule irrespective of the fact that the alcoholic liquors are purchased in bond or imported in bond. The fact that a warehouse, acting as agent for the manufacturer, may receive the alcoholic liquors and issue a warehouse receipt does not relieve the manufacturer from reporting the transaction. All bulk alcoholic liquors purchased tax-free in Illinois or imported into Illinois by a manufacturer of alcohol and spirits and stored in a public or bonded warehouse for its account must be reported in this schedule at the time the alcoholic liquors are purchased by the manufacturer and received by the warehouse, and this information may not be withheld until the alcoholic liquors are withdrawn from the warehouse. This is an information schedule only and is not to be entered on the monthly return.
- J) Returned Merchandise. Alcoholic liquors returned by Illinois licensees to vendors from whom the alcoholic liquors were purchased, and who are located outside of the State of Illinois, must be reported the same as a sale in interstate commerce on Schedule "C" – Tax-Free Sales in Interstate Commerce and Foreign Trade.
- i) Alcoholic liquors returned to Illinois licensees by their customers located outside of the State of Illinois must be reported the same as an importation on Schedule "A" – Alcoholic Liquor Transactions.
- ii) When untaxed alcoholic liquors are returned to a

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manufacturer or an importing distributor, both parties being Illinois licensees, the person returning the liquors will report the transaction on Schedule "B"— Tax-Free Alcoholic Liquor Sales to Licensed Manufacturers and Importing Distributors, and the one receiving the returned liquors will report on Schedule "F"— Alcoholic Liquor Transactions.

- iii) Tax-paid alcoholic liquors returned to an Illinois manufacturer or importing distributor by someone in Illinois need not be scheduled by the person returning the liquors, but the person receiving the returned liquors must report the transaction on Schedule "G"— Tax-Paid Inventory, the same as a purchase of tax-paid alcoholic liquor.

- c) **Statement By Out-of-State Sellers Other Than Illinois Licensed Foreign Importers:**
Out-of-State sellers, who are not licensed in Illinois as foreign importers, and who sell, to Illinois licensed importing distributors, beer, wine, or alcohol and spirits that are located at some place in the United States outside Illinois, and that are shipped or otherwise delivered into Illinois, are required to file with the Department, within 15 days after the end of each month, on forms prescribed and furnished by the Department, a statement setting forth the names and addresses of the persons in Illinois to whom beer, wine or alcohol and spirits were so sold and shipped or otherwise delivered during the preceding month and the respective quantities so sold and shipped or otherwise delivered.
- d) **Information Returns From Illinois Licensed Foreign Importers**
 - 1) The Department has determined it to be necessary, for the proper performance of its functions and duties under the Act, to require licensed foreign importers who are not also licensed in Illinois as importing distributors of alcoholic liquor to file a monthly information return with the Department. The return must be filed by the 15th day of the month following the month for which the return is filed. The return shall contain such information as the Department may reasonably require.
 - 2) It is not necessary for the special foreign importer information return to be

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filed by any foreign importer who is also licensed in Illinois as an importing distributor of alcoholic liquor.

(Source: Amended at 44 Ill. Reg. 265, effective December 23, 2019)

STATE BOARD OF ELECTIONS

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- 1) Heading of the Part: Campaign Financing
- 2) Code Citation: 26 Ill. Adm. Code 100
- 3) Section Number: 100.10 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Article 9 of the Election Code [10 ILCS 5] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5].
- 5) Effective Date of Rulemaking: December 23, 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 principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 43 Ill. Reg. 10434, September 20, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No changes were made between the proposal and final version.
- 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 rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rule would treat loans made by a political committee as an asset of the committee for campaign disclosure reporting purposes (meaning that the status of loans made would have to be included in the quarterly reporting).
- 16) Information and questions regarding this adopted rule shall be directed to:

STATE BOARD OF ELECTIONS

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Bernadette M. Matthews, Acting General Counsel
Illinois State Board of Elections
2329 S MacArthur Blvd.
Springfield IL 62704

217/782-4141
bmatthews@elections.il.gov

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

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED AMENDMENT

TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONSPART 100
CAMPAIGN FINANCING

Section	
100.10	Definitions
100.20	Official Forms
100.30	Forwarding of Documents (Repealed)
100.40	Vacancies in Office – Custody of Records
100.50	Multiple Filings by State and Local Committees (Repealed)
100.60	Filing Option for a Federal Political Committee
100.70	Reports of Contributions and Expenditures
100.75	Limitation on Campaign Contributions
100.80	Report Forms
100.85	Independent Expenditures
100.90	Provision Circumvention
100.100	Proof of Identification; Application for Inspection and Copying (Repealed)
100.110	Responsibility for Committee Debts or Penalties
100.120	Receipt of Campaign Contributions
100.125	Receipt by Mail of Quarterly Reports of Campaign Contributions and Expenditures
100.130	Reporting by Certain Nonprofit Organizations (Repealed)
100.140	Prohibited Contributions – State Property
100.150	Electronic Filing of Reports
100.160	Good Faith
100.170	Sponsoring Entity
100.175	Audit Findings for Political Committees
100.180	Business Entity Registration Procedures
100.185	Assessment of Civil Penalties
100.APPENDIX A	Contributions Allowed Per Election Cycle
100.TABLE A	Contribution Limits Per Election Cycle
100.TABLE B	Election Cycles

AUTHORITY: Implementing Article 9 of the Election Code [10 ILCS 5] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5].

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SOURCE: Amended at 5 Ill. Reg. 1337, effective January 30, 1981; amended at 5 Ill. Reg. 12115, effective October 26, 1981; codified at 6 Ill. Reg. 7211; amended at 7 Ill. Reg. 225, effective December 16, 1982; amended at 14 Ill. Reg. 10824, effective June 22, 1990; amended at 16 Ill. Reg. 6982, effective April 21, 1992; amended at 18 Ill. Reg. 14707, effective September 9, 1994; amended at 21 Ill. Reg. 10044, effective July 21, 1997; emergency amendment at 23 Ill. Reg. 719, effective January 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6796, effective May 24, 1999; emergency amendment at 24 Ill. Reg. 13039, effective August 9, 2000, for a maximum of 150 days; emergency expired January 5, 2001; amended at 24 Ill. Reg. 14214, effective September 11, 2000; amended at 29 Ill. Reg. 18785, effective November 7, 2005; amended at 30 Ill. Reg. 10261, effective June 1, 2006; amended at 30 Ill. Reg. 17496, effective November 3, 2006; amended at 31 Ill. Reg. 7142, effective May 1, 2007; emergency amendment at 33 Ill. Reg. 332, effective January 1, 2009, for a maximum of 150 days; emergency expired May 30, 2009; emergency amendment at 33 Ill. Reg. 9809, effective June 29, 2009, for a maximum of 150 days; emergency expired November 25, 2009; amended at 34 Ill. Reg. 274, effective December 15, 2009; amended at 34 Ill. Reg. 10521, effective July 9, 2010; amended at 35 Ill. Reg. 2295, effective February 4, 2011; amended at 35 Ill. Reg. 12973, effective July 19, 2011; amended at 39 Ill. Reg. 8060, effective May 19, 2015; amended at 42 Ill. Reg. 4977, effective February 28, 2018; amended at 42 Ill. Reg. 13261, effective June 19, 2018; amended at 44 Ill. Reg. 276, effective December 23, 2019.

Section 100.10 Definitions

a) General Definitions

"Article 9" means Article 9 of the Election Code (campaign disclosures, contributions and expenditures).

"Board" means the Illinois State Board of Elections.

"Election Code" or "Code" means 10 ILCS 5.

"File", "Filed" or "Filing" means:

The statement, report or document being filed is in apparent and substantial conformity with the requirements of the Election Code. Apparent and substantial conformity requires that the filing contain the following:

The signature of the person making the filing;

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Completion of all applicable sections of the report; and

Attachment of all appropriate schedules.

Inadvertent error or omission of a de minimus nature in the completion of a report, statement or document shall not be deemed to be a "willful failure to file or a willful filing of false or incomplete information" under Code Section 9-26.

"Immediate Family" means the spouse, parent or child of the public official, candidate or any other person referred to in this Part. A parent shall include a stepparent or adoptive parent. A child shall mean a biological, adopted or stepchild.

"Labor Union" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and that exists for the purpose, in whole or in part, of bargaining with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

"Public Office" means, among other things, an elective office. The term includes the political party offices of state central, county, ward, township and precinct committeeman.

"Signature" or "Signed", as used in Article 9 and this Part, includes electronic signatures attached and made a part of electronic records submitted to the State Board of Elections pursuant to Code Section 9-28.

"Submit" or "Submitting", as used in Code Section 9-11, means actually filing a report with the Board through the following methods:

uploading a report electronically or, if accomplished at a Board office or with the assistance of Board staff, the committee representative is present and/or authorizing the report filing;

using the U.S. Postal Service, overnight delivery, or any other delivery service;

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hand delivering a report to the Board; or

faxing a Schedule A-1 to the Board.

With the exception of the chairman or the treasurer, the person submitting the report on behalf of the committee must list himself or herself as having submitted the report.

- b) Definitions Interpreting Specific Sections of the Election Code
 - 1) Assets
 - A) Reference: This definition of assets interprets or applies to Code ~~Sections~~[Section 9-5 and 9-11](#).
 - B) An asset is an item of property, other than cash or services, of any kind, tangible or intangible, that has either a fair market or salvage value in excess of \$150. For reporting purposes, a loan made by a political committee that has not been repaid or forgiven shall be considered as an asset held as an investment.
 - 2) Candidate
 - A) Reference: This subsection (b)(2) interprets or applies to Code Section 9-1.3.
 - B) "Candidate", as that term is defined in Code Section 9-1.3, shall include, but not be limited to:
 - i) A person who circulates or authorizes the circulation of nominating petitions on his or her behalf for public office;
 - ii) An individual who receives contributions or makes expenditures or gives consent for any other person to receive contributions or make expenditures for the purpose of bringing about his or her nomination for election or re-election to any office;
 - iii) Any judicial incumbent who qualifies for retention.

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- 3) Contributions and Anything of Value
- A) Reference: This subsection (b)(3) interprets or applies Code Sections 9-1.4, 9-1.5, 9-1.8, 9-1.12, 9-1.14 and 9-1.15.
 - B) The term "anything of value", as used in Code Sections 9-1.4, 9-1.5 and 9-1.12, means any item, thing, service or goods, regardless of whether valued in monetary terms according to ascertainable market value.
 - C) "Anything of value" that does not have an ascertainable market value may be reported by describing the item, thing, service or goods contributed; however, nothing in this subsection (b)(3) relieves a committee or a contributor of the duty to provide as accurate an assessment of value as possible.
 - D) Interest, other investment income, earnings or proceeds, and refunds and returns shall not be reported as a contribution, but shall be reported as a receipt according to this subsection (b)(3). For purposes of reporting campaign receipts and expenses, income from investments shall be included as receipts during the reporting period they are actually received. The gross purchase price of each investment shall be reported as an expenditure at time of purchase. Net proceeds from the sale of an investment shall be reported as a receipt. During the period investments are held, they shall be identified by name and quantity of security or instrument on each quarterly report during the period. The value of each instrument as of the day the reporting period closes shall be included for each asset held as an investment.
 - E) In addition to the items expressly excluded in the Election Code, the terms "anything of value" and "contribution" shall not be deemed to include:
 - i) Any unreimbursed payments for travel or living expenses related to travel made by an individual who volunteers services on behalf of a political committee, including a candidate political committee;

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- ii) Any news story, commentary, endorsement or editorial of any broadcasting station, newspaper, magazine or other periodical publication;
 - iii) Any publication by a membership association or corporation to its officers, employees, members, stockholders, or members of the immediate families of these persons, so long as the membership association or corporation is not organized primarily for the purpose of influencing the nomination for election, election, or retention of any candidate, or supporting or opposing any question or questions of public policy;
 - iv) The occasional use of real property of a person or whoever, as defined in Code Section 9-1.6, and as defined in Section 100.10(b)(4), for the purpose of conveying information to officers, employees, members or stockholders of an association or a corporation, and the immediate families of these persons, including but not limited to the use of the premises for the purpose of a candidate communicating directly with officers, employees, members or stockholders and the immediate families of these persons;
 - v) Unrealized appreciation or loss of value of investments during the period they are held.
- F) A loan of money from a bank, credit union, or other financial institution to a candidate or public official, or his or her political committee, shall not be listed as a contribution from that institution, but shall instead be listed on the committee's disclosure filings as a contribution from the person or persons endorsing the loan. Security for a loan, if provided by a person other than the candidate or the candidate political committee, does qualify as a contribution and shall be reported as having come from the person who provided it and shall be subject to contribution limits. A loan of money from a bank, credit union or other financial institution to a committee other than a candidate political committee shall not be considered a contribution from that institution, and shall not be

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subject to the contribution limits if the guarantor for the loan is the committee itself or if the loan agreement is signed by an authorized officer of the committee acting on the committee's behalf. These loans shall be reported on disclosure filings by listing the committee as endorser and also listing the financial institution from which the loan is obtained.

- G) Independent expenditures are not contributions, as that term is defined in Code Section 9-1.4. Independent expenditures are those made for the purpose of electioneering communication, as that term is defined in Code Section 9-1.14, or that expressly advocates the election, nomination or defeat of a public official or candidate or for or against any question of public policy to be submitted to the voters and that is not made in cooperation, concert or consultation with, or at the request or suggestion of, the public official or candidate. Communications that expressly advocate the election, nomination or defeat of a public official or candidate or for or against any question of public policy to be submitted to the voters are those that unequivocally state in the communication that the public official or candidate ought to be elected, nominated or defeated or the question of public policy ought to be approved or defeated. These communications typically contain the terms "vote for", "elect" or, in the case of expressly advocating the defeat of a candidate, "vote against", "vote no", "defeat", etc.
- H) "Clearly identifiable candidate" means the candidate's name (first name and surname) but does not necessarily have to include the candidate's middle name or middle initial. A clearly identifiable candidate can also be one that is described in such a way as to exclude any other candidate so as to leave no doubt in the mind of the person being communicated to as to whom the communication is referring. For example: "The Democratic Party's candidate for Mayor", "Congressman Jones", or "the former Republican candidate for Congressman who was defeated at the most recent General Election". A clearly identifiable candidate can also be described by use of a photograph or other visual image or likeness.
- I) A communication by a corporation, a limited liability company, or an association to its members or stockholders and executive or

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administrative personnel, or the immediate families of these persons, is not a contribution. For purposes of this Part, a corporation is one that is registered with the Business Services Division of the Illinois Secretary of State or is similarly registered with any other state in compliance with that state's laws or that operates as or holds itself out as a corporation so that it would be required to register with the Illinois Secretary of State, regardless if it has taken affirmative action to so register. For purposes of this Part, an association is defined broadly to include any group of persons or entities that have a common purpose and that have an organizational structure with an existing membership roster and governing by-laws or other similar rules. An association includes those that are both for-profit and not-for-profit (however the entity does not necessarily have to be organized under the laws of this or any other state) and includes a labor union as that term is defined in subsection (a).

- J) A voter registration campaign or other Get Out The Vote (GOTV) activity is not deemed to be "anything of value" or a "contribution", so long as the campaign or activity makes no mention of any clearly identified candidate, public question, political party, group or combination of these entities.

- 4) Person or Whoever
 - A) Reference: This subsection (b)(4) interprets or applies Code Section 9-1.6.

 - B) The terms "other organizations" and "groups of persons" as defined in Code Section 9-1.6 shall include, but not be limited to, all corporations, labor unions, trade associations or other such groups, religious organizations, fraternal societies, luncheon and dinner organizations, etc.

- 5) Political Committee
 - A) Reference: This subsection (b)(5) interprets or applies Code Sections 9-1.8 and 9-1.9.

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- B) A person or whoever, as defined in Code Section 9-1.6 and in subsection (b)(4) of this Section, does not qualify as a political committee pursuant to Article 9 of the Election Code by simply making a contribution from his or her personal income or profits, regardless of the amount of the donations. If an entity, other than a natural person, makes an independent expenditure or expenditures in aggregate within a 12 month period in excess of \$3,000 supporting or opposing public officials or candidates, then the entity qualifies as a political committee.
- C) If a person or whoever solicits or receives funds for political purposes, he or she would, in fact, become a political committee and would have to comply with all provisions of Article 9. The provisions of this subsection (b)(5) shall not apply to those persons who accept contributions from at least 5 individuals as provided in Code Section 9-6.
- D) Political committees shall include candidate political committees, political party committees, political action committees, ballot initiative committees and independent expenditure committees, as those terms are defined in Code Section 9-1.8. Candidates who form a new political party under Code Section 10-2 by running a full slate may collectively form a political party committee to support their candidacy or each candidate may individually form a candidate political committee. Groups of candidates who run as either independents under Code Section 10-3, or as non-partisan candidates by virtue of the office being non-partisan pursuant to statute, may collectively form a political action committee to support their candidacy, or each candidate may individually form a candidate political committee. In no case may a candidate form both a candidate political committee and a political action committee to support his or her own candidacy. Candidates of established political parties may collectively form a political action committee to support their candidacy or each candidate may individually form a candidate political committee. Candidates who exercise the option of forming a political action committee may not include the names of any of the candidates in the name of the political action committee. A political action committee must, however, include the name of the office that the candidates are

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seeking and the name of the political subdivision or unit of local government to which the office pertains. In all cases except political party committees, political committees are limited to those that accept contributions or make expenditures or independent expenditures in an aggregate amount exceeding \$5,000 on behalf of or in opposition to candidates, or, in the case of a ballot initiative committee, in support of or opposition to questions of public policy.

- i) Political Party Committees referred to in Code Section 9-1.8(c) include "legislative caucus committees" and are defined as caucuses that are established by either 5 or more members of the same caucus in the Senate or 10 or more members of the same caucus in the House of Representatives. These committees shall include any caucus declared by its membership to be a caucus. If the number of caucus members of a given caucus committee decreases below the designated threshold (5 Senate/10 House members), the caucus committee shall become a political action committee, as that term is defined in Code Section 9-1.8, and be subject to the contribution limits pertaining to political action committees established in Code Section 9-8.5(d), unless the caucus committee either fills the vacancy or dissolves within 5 business days after the date the vacancy occurred.
- ii) A committee formed by a ward or township committeeman of a political party shall be designated as a political party committee. Pursuant to Code Section 7-8(b), only ward committeemen in the City of Chicago and township committeemen in Cook County qualify for this designation. Nothing in this subsection (b)(5)(D)(ii) shall be construed to limit the ability of a ward or township committeeman to form a candidate political committee in support of his or her own candidacy.
- iii) For purposes of Code Section 9-1.9, a judicial candidate running for retention subsequent to his or her first retention candidacy following the candidate's election shall be

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subject to the election cycle established in Code Section 9-1.9(3), except that the period shall begin on January 1 following the candidate's retention (as opposed to his or her election) and extending to the day the candidate files his or her next declaration to seek retention and the period beginning after that day and extending to December 31 following the candidate's retention election. This judicial retention election cycle is subject to the fundraising restrictions contained in Canon 7 of Rule 67 of the Rules of the Illinois Supreme Court (committees established to support judicial candidates may not solicit contributions more than 1 year preceding the election in which the candidate is seeking judicial office or retention thereto, and no later than 90 days following such election).

- iv) Any corporation, labor organization or association that acts as a conduit in facilitating the delivery of dues, levies or similar assessments to a political action committee as provided in Code Section 9-8.5(i) shall not, solely as a result of this activity, be considered to be a political action committee within the meaning of the disclosure and regulation requirements of Article 9 of the Code.
- v) These election cycles apply regardless of whether the candidate only appears on either the consolidated primary ballot or the consolidated election ballot. For purposes of Code Section 9-1.9(4), the election cycle for a candidate political committee organized to support a candidate to be nominated or elected at a consolidated primary election or elected at a consolidated election, or municipal or runoff election in cities of 1,000,000 or more population occurring on the date of the regularly scheduled consolidated primary or consolidated election, shall run from:
- the period beginning July 1 following the consolidated election for which the candidate seeks election and ending on the day of the next consolidated primary election for that office; or

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- the period beginning the day after the consolidated primary election for the office to which the candidate seeks nomination or election and through June 30 following the consolidated election held that year.
- vi) If a candidate political committee established for multiple offices elected at different elections changes its election cycle pursuant to Code Section 9-2(b), the committee shall be subject to the new election cycle established under Code Section 9-1.9 and to the contribution limits for the new election cycle contained in Code Section 9-8.5(b). Contributions received by the committee prior to the date of the establishment of the new election cycle will be counted towards the contribution limit for each contributor, with the following exception: the contributions shall not be considered to have been received in excess of contribution limits if the limit was exceeded solely because of the establishment of the new election cycle. However, for the remainder of the new election cycle, the committee would be considered to have received the maximum allowable contribution from that contributor for that election cycle and would be prohibited from receiving any additional contributions from that contributor during the remainder of the new election cycle.
- E) If an entity forming a political action committee under Code Section 9-2(d) is not a clearly identifiable trust, partnership, committee, association, corporation or other organization, but rather a group of persons lacking any formal organizational structure, the name of the political committee shall include the name (first and last) of the person or persons responsible for its formation or its continuing operation. This Section shall not apply to established party candidates who collectively form a political action committee to support their candidacies pursuant to subsection (b)(5)(D).
- F) The name of a ballot initiative committee must include a brief description of the question or questions and whether the committee is organized to support or oppose the question or questions. The

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name shall not exceed 70 characters (based on U.S. Post Office restrictions applicable to mailing labels) and shall include keywords that would provide a reasonable person with a general understanding of the subject matter of the question or questions and whether the committee was formed to support or oppose the question or questions.

- G) A candidate political committee of a former officeholder or supporting a now deceased candidate or officeholder may, subject to the applicable contribution limits, maintain the committee as a candidate political committee, close the committee and dispose of any remaining funds as indicated on its D-1 Statement of Organization, or convert the committee to a political action committee by filing an amended D-1 Statement of Organization amending the committee type, as well as the name, purpose of the committee, and any other information that has changed.
- H) A political committee that converts to a new committee type as defined in Code Section 9-1.8 is limited in the amount of funds that it may retain under the new committee type designation to the contribution limits in Code Section 9-8.5. The applicable limit shall be determined by the amount of funds allowed to be contributed from the original committee type to the new committee type. If the committee has a fund balance that exceeds the normal contribution limit from the original committee type to the new committee type, it must first dispose of the excess funds before making the conversion. A candidate political committee changing the candidate it is supporting shall be considered to be transferring funds from one candidate political committee to another, and shall be limited in the amount of funds it may retain to the contribution limits between two candidate political committees. If the committee has a fund balance that exceeds that limit, it must first dispose of the excess funds before making the conversion. A candidate political committee that owes outstanding fines is prohibited from changing its committee type or the candidate supported by the committee until the fines are paid in full.
- 6) Statement of Organization

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- A) Reference: This subsection (b)(6) interprets Code Section 9-3.
- B) A committee officer must, in filling out the Form D-1, use the name that appears on his or her birth certificate, baptismal record, voter's registration card, statement of candidacy or nominating petition, or any other name by which the officer is commonly known in the community in which the officer resides. Aliases created for the purpose of filing under Article 9 of the Election Code may not be used.
- C) The prohibitions contained in Code Section 9-3(d)(iii) and (d-5)(iii) against making contributions from a ballot initiative committee or an independent expenditure committee to a candidate or candidates for nomination for election, election or retention to public office shall not include refunds of contributions to the candidate so long as the refund does not exceed the amount the candidate originally contributed. Nothing in Code Section 9-3(d)(i) prohibits an independent expenditure committee from making expenditures on its own behalf for the customary and reasonable expenses of operating a political committee, provided that the expenditures are not made in connection, consultation or concert with, or at the request or suggestion of, any other political committee, public official or candidate, or the agent or agents of the committee, public official or candidate.
- D) For the purpose of this subsection (b)(6), the term "person" contained in the definition of "sponsoring entity" shall not include a political committee. The term "sponsoring entity" is defined in Section 100.170.
- E) A complaint for willfully filing a false or incomplete Statement of Organization shall be subject to the provisions of Code Sections 9-20 and 9-21.

(Source: Amended at 44 Ill. Reg. 276, effective December 23, 2019)

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- 1) Heading of the Part: Cannabis Social Equity Program
- 2) Code Citation: 14 Ill. Adm. Code 650
- 3)

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
650.10	New Section
650.15	New Section
650.20	New Section
650.25	New Section
650.30	New Section
650.35	New Section
650.40	New Section
650.45	New Section
- 4) Statutory Authority: Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705/1-10 and 7-15] and the Department of Commerce and Economic Opportunity Law [20 ILCS 605/605-55].
- 5) Effective Date of Rules: December 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: The Department has not specified an expiration date.
- 7) Date Filed with the Index Department: December 20, 2019
- 8) A statement that a copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection: The Department maintains a copy of the adopted rule including any reference materials in its principal office in Springfield, IL and is available for public inspection.
- 9) Reason for Emergency: PA 101-27 directs the Department to implement a loan program to support cannabis business establishments that seek licensure from the Department of Financial and Professional Regulation and the Department of Agriculture and to make determinations about areas that have been disproportionately impacted by the enforcement of cannabis-related laws. Although the other departments are explicitly authorized to adopt emergency rules, the Department did not receive that same grant; however, the timely implementation of the loan program and definitions related to Social Equity Applicants are essential to implementing the licensing process in a manner that promotes equity in the legal adult use cannabis industry.

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- 10) A Complete Description of the Subjects and Issues Involved: The rules implement provisions of the Cannabis Regulation and Tax Act relating to Social Equity Applicants for the various licenses authorized by PA 101-27. The rules identify the eligibility requirements and process for applying for funding under the Cannabis Social Equity Program.
- 11) Are there any other rulemakings pending on this Part pending? No
- 12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805].
- 13) Information and questions regarding this rule shall be directed in writing to:

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

217/557-1820
217/524-3701
jolene.clarke@illinois.gov

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

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NOTICE OF EMERGENCY RULES

TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 650

CANNABIS SOCIAL EQUITY PROGRAM

Section

650.10 Purpose

EMERGENCY

650.15 Definitions

EMERGENCY

650.20 Fees

EMERGENCY

650.25 Application Cycle

EMERGENCY

650.30 Loan and Financial Assistance Program Application Documentation

EMERGENCY

650.35 Business Loan and Financial Assistance Application Evaluation

EMERGENCY

650.40 Selection for Funding

EMERGENCY

650.45 Loan and Financial Assistance Administrative Requirements

EMERGENCY

AUTHORITY: Implementing and authorized by Sections 1-10 and 7-15 of the Cannabis Regulation and Tax Act [410 ILCS 705] and Section 605-55 of the Department of Commerce and Economic Opportunity Law [20 ILCS 605].

SOURCE: Adopted by emergency rulemaking at 44 Ill. Reg. 292, effective December 20, 2019, for a maximum of 150 days.

Section 650.10 Purpose**EMERGENCY**

- a) In the interest of establishing a legal cannabis industry that is equitable and accessible to those most adversely impacted by the enforcement of drug-related laws in Illinois, including cannabis-related laws, the General Assembly has found that a social equity program in the cannabis industry should be established to help

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remedy the harms resulting from the disproportionate enforcement of cannabis-related laws. The Cannabis Social Equity Program authorized by the Act should offer, among other things, financial assistance and License application benefits to individuals most directly and adversely impacted by the enforcement of cannabis-related laws who are interested in starting Cannabis Business Establishments.

- b) In furtherance of this purpose, the Department is authorized to:
- 1) identify geographic areas that have been disproportionately impacted by the enforcement of cannabis-related laws (Disproportionately Impacted Areas);
 - 2) provide financial assistance, loans, grants, and technical assistance to Social Equity Applicants;
 - 3) conduct outreach that may be provided or targeted to attract and support Social Equity Applicants; and
 - 4) assist with job training and technical assistance for Illinois residents in Disproportionately Impacted Areas.
- c) The Cannabis Social Equity Program includes the Business Loan and Financial Assistance Program through which the Department will undertake the following activities:
- 1) Subject to the availability of funding, the Department will provide term loans and lines of credit on a low or no interest basis to eligible Illinois businesses that are seeking or have received licensure under the Act.
 - 2) Applications will be accepted following an announcement on the Department's website. The Department will prioritize loans and lines of credit based on market entry dates, demand, the availability of funding, and the extent to which the financial support furthers the purposes of the Act.
 - 3) The Department may issue conditional commitment letters to Social Equity Applicants to support applications for licensure.
 - 4) The Department may enter into agreements with financial institutions and

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other sources of capital to leverage additional funding for Qualified Social Equity Applicants or to otherwise facilitate social equity in the cannabis industry.

Section 650.15 Definitions**EMERGENCY**

The following definitions are applicable to the Cannabis Social Equity Program.

"Act" means the Cannabis Regulation and Tax Act [410 ILCS 705].

"Adult Use Dispensing Organization License" means a license issued by the Department of Financial and Professional Regulation that permits a person to act as a dispensing organization under the Act and any administrative rule made in furtherance of the Act. [410 ILCS 705/1-10]

"Agreement" means a loan or line of credit agreement under the Program.

"Applicant" means a person that intends to apply or has applied for licensure under the Act as a Social Equity Applicant.

"Basic Wage" means compensation for employment that is no less than the legal minimum wage of the jurisdiction in which the person is employed. Basic wage shall not include overtime pay, bonus pay, stock options, awards or any other equity-based incentive, unreimbursed employee expenses, piecemeal rate of pay, or any form of deferred compensation.

"Borrower" means a Qualified Social Equity Applicant that has entered into an agreement with the Department or a financial institution partner under the Business Loan and Financial Assistance Program.

"Business Applicant" means an applicant or a Social Equity Applicant who is seeking to participate in the Business Loan and Financial Assistance Program.

"Business Loan and Financial Assistance Program" or "Program" means the loan and line of credit Program, designed to promote social equity within the Illinois cannabis industry, set forth in this Part.

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"Cannabis Business Establishment" means a cultivation center, craft grower, processing organization, dispensing organization, or transporting organization.
[410 ILCS 705/1-10]

"CI Act" means the Criminal Identification Act [20 ILCS 2630].

"Conditional Adult Use Dispensing Organization License" means a license awarded to top-scoring applicants for an Adult Use Dispensing Organization License that reserves the right to an Adult Use Dispensing Organization License if the applicant meets certain conditions described in the Act, but does not entitle the recipient to begin purchasing or selling cannabis or cannabis-infused products. [410 ILCS 705/1-10]

"Conditional Commitment Letter" means a letter from the Department indicating that an applicant has been provisionally approved for a loan or line of credit under the Program, subject to receipt of a license and meeting other requirements described in a conditional commitment letter.

"Department" means the Illinois Department of Commerce and Economic Opportunity.

"DFPR" means the Illinois Department of Financial and Professional Regulation.

"Disproportionately Impacted Area" means a census tract or comparable geographic area that:

satisfies, as determined by the Department, at least one of the following criteria:

the area has a poverty rate of at least 20%, according to the latest federal decennial census or the U.S. Census Bureau American Community Survey 5-Year Estimates, 2013-2017, whichever is more current;

75% or more of the children in the area participate in the federal free lunch program, according to reported statistics from the State Board of Education, if current and uniform statewide data is available;

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at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program, according to data from the U.S. Census Bureau American Community Survey 5-Year Estimates, 2013-2017; or

the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the United States Department of Labor, for a period of at least 2 consecutive calendar years preceding the date of the application; and

has high rates of arrest, conviction, and incarceration related to the sale, possession, use, cultivation, manufacture, or transport of cannabis. [410 ILCS 705/1-10]

"Financial Institution Partner" means a chartered bank or credit union that has entered into an agreement with the Department to provide funding to a Qualified Social Equity Applicant on behalf of or in tandem with the Department.

"Full-Time Employee" means an individual for whom a W-2 is issued by the applicant and who is employed for a basic wage for at least 35 hours each week.

"High Rates of Arrest, Conviction, and Incarceration" means an average annual rate of arrests that exceeds 30 per 10,000 residents of the census tract, according to population data from the latest U.S. Census Bureau American Community Survey 5-year estimates, 2013-2017, and arrest data maintained by the Illinois State Police for the period of January 1, 2009 through May 8, 2019. When at least 20% of arrests by an arresting agency have arrestee address information, those arrests without arrestee address information will be assigned to a census tract as follows:

the distribution of each arresting agency's arrests with known addresses shall be determined for each census tract within that agency's jurisdiction (each tract's share of the total known addresses for that arresting agency being that census tract's "census tract share" for that arresting agency);

the number of arrests with unknown addresses for each arresting agency shall be multiplied by each tract's census tract share, with the product of

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each calculation being allocated to each census tract as an arrest (each such allocation being an "imputed arrest" for that census tract and arresting agency); and

the imputed arrest for each census tract will be summed across all arresting agencies, with the total being added to the known arrests in each census tract summed across all arresting agencies to arrive at each census tract's total number of estimated arrests for that census tract over the period.

However, if uniform statewide data on annual rates of conviction and incarceration is unavailable, the Department may use an average annual rate of persons being released onto parole or mandatory supervised release for offenses eligible for expungement under CI Act Section 5.2 that exceeds 1 per 10,000 residents and has a minimum of 5 persons being released onto parole or mandatory supervised release for offenses eligible for expungement under the Act between July 1, 2009 and August 23, 2019), according to population data from the latest U.S. Census Bureau American Community Survey 5-year estimates, 2013-2017, and data maintained by the Illinois Department of Corrections for the period of July 1, 2009 through August 23, 2019.

"License" means any of the Cannabis Business Establishment licenses established under the Act.

"Member of an Impacted Family" means an individual who has a parent, legal guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to the effective date of the Act, was arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the Act. [410 ILCS 705/1-10]

"Ordinary and Necessary Expenses" are those expenses incurred in day-to-day operations that are appropriate, helpful to the success of the business, and approved by the Department.

"Organizational and Ownership Records" means records requested by the Department to verify the bona fide ownership and control of an applicant. These records may include, but are not limited to:

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a Table of Organization, Ownership and Control as described in Section 15-50 of the Act;

articles of incorporation or organization, trust agreement, partnership agreement, joint venture agreements and the like, including any exhibits to these documents;

operating agreement, articles of partnership, corporate bylaws and the like, including any exhibits;

capitalization tables and other records of ownership interests;

to the extent any owner, member, partner, or trustee of the applicant is a corporate entity, the governing documents of that entity and records showing its owners;

copies of all guarantees to which the applicant is a party;

licensing or franchise agreements; and

any other information requested by the Department to identify ownership or any significant beneficial interests in the applicant.

"Ownership and Control" means ownership of at least 51% of the business, including corporate stock if a corporation, and control over the management and day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to percentage of ownership. [410 ILCS 705/1-10]

"Pay Stub" means a written receipt that shows hours worked, rate of pay, overtime pay and overtime hours, gross wages, an itemization of all deductions, and wages and deductions for the year to date for an employee.

"Person" means a natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, or limited liability company, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court. [410 ILCS 705/1-10]

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"Qualified Social Equity Applicant" means a Social Equity Applicant who has been awarded a conditional license under the Act to operate a Cannabis Business Establishment. [410 ILCS 705/1-10]

"Residency Records" means records requested by the Department to verify an applicant's eligibility to participate in the Program. These records may include, but are not limited to:

a signed lease agreement that includes the applicant's name;

a property deed that includes the applicant's name;

records reflecting government housing or other assistance that contain the applicant's name and address;

school records;

a voter registration card;

an Illinois driver license, an Illinois Identification Card, or an Illinois Person with a Disability Identification Card;

paycheck stubs;

utility bills;

military service records showing the member's state of legal residency or home of record;

proof of receipt of a homestead exemption for Illinois property (see 35 ILCS 200/15-175);

a certification of homeless status during the time relevant for consideration;

the applicant's most recent State tax return showing the applicant is subject to the Illinois Income Tax and the Personal Property Tax Replacement Income Tax as a resident of Illinois; or

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other proof that is generally accepted by DFPR, the Department of Agriculture (DOA), the Department of Revenue, or the Illinois Secretary of State to establish a person's status as a resident in Illinois and that is approved by the Department.

"Social Equity Applicant" means an applicant that is an Illinois resident that meets one of the following criteria:

an applicant with at least 51% ownership and control by one or more individuals who:

have resided for at least 5 of the preceding 10 years in a Disproportionately Impacted Area;

have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the CI Act; or

are members of an impacted family; or

for applicants with a minimum of 10 full-time employees, an applicant with at least 51% of current employees who:

currently reside in a Disproportionately Impacted Area; or

have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the CI Act or member of an impacted family. [410 ILCS 705/1-10]

**Section 650.20 Fees
EMERGENCY**

- a) The Department may charge a borrower a closing fee of up to \$5,000, which may be paid at closing or, in the case of a term loan, added to the principal balance of the loan.
- b) If, during the term of an Agreement, a borrower transfers, sells, or grants its license within 5 years after it was issued to a person or entity that does not qualify as a Social Equity Applicant, the transfer agreement shall require the new license holder to pay the Department a Program closeout fee of up to \$10,000 in addition

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to the balance of the loan or line of credit.

- c) If, during the term of an Agreement, a borrower ceases to meet the criteria of a Social Equity Applicant, the Department may accelerate repayment of the balance of the loan or line of credit and require the borrower to pay a Program closeout fee of up to \$10,000.

Section 650.25 Application Cycle**EMERGENCY**

Applications under the Program will be accepted until allocated Program funds are exhausted, subject to the availability of funding as determined by the Department. Funding decisions will also be subject to market entry or license issuance dates and demand for financial support. The Department will supply an application package upon request.

Section 650.30 Loan and Financial Assistance Program Application Documentation**EMERGENCY**

Receipt of an application to the Program does not commit the Department to award a loan or line of credit or to pay any costs incurred by a Business Applicant in preparation of an application. Written applications will be required and must be submitted on the standard application form provided by the Department.

- a) Applications shall be submitted to the Department office location identified on the application. The application for loans and lines of credit will include:
 - 1) Social Equity Applicant Status Information
 - A) DFPR or DOA Certification shall be provided. Certification means any letter or other written documentation from DFPR or DOA verifying the applicant's status as a Social Equity Applicant or a Qualified Social Equity Applicant for a license issued by that agency. This verification may be provided at any time prior to entering into the loan or line of credit agreement.
 - B) The Business Applicant shall provide:
 - i) Proof of the Business Applicant's Illinois Residency. The proof must consist of at least two residency records.

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Residency will be verified at the time of application to the Program and certified by the borrower at closing. The Department may require more than two residency records to confirm eligibility.

- ii) **Owner Information.** If the Business Applicant's eligibility is based on the majority of its owners having resided in a Disproportionately Impacted Area, the Business Applicant shall provide, for each owner who is relevant to the eligibility determination, the following:
- at least two residency records that establish residency in a Disproportionately Impacted Area for 5 of the 10 years preceding the application; and
 - organizational and ownership records requested by the Department.
- iii) **Eligibility Documentation.** If the Business Applicant's eligibility is based on the majority of its owners having been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the CI Act or being a member of an impacted family, the Business Applicant shall provide, for each owner who is relevant to the eligibility determination, a record of the arrest, conviction or adjudication from the responsible legal authority. If an owner is a member of an impacted family, the Business Applicant may be required to provide proof (e.g., copies of birth certificates or other records) of the owner's relation to the individual who was arrested for, convicted of, or adjudicated delinquent for such an offense.
- iv) **Employee Information.** If the Business Applicant has at least 10 full-time employees at the time of its application, it may be considered a Social Equity Applicant if at least 51% of its full-time employees reside in a Disproportionately Impacted Area or have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the CI Act or a

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member of an impacted family. A Business Applicant eligible under this criterion shall provide, for each relevant employee:

- a W-2 issued to the employee by the Business Applicant and the two most recent pay stubs if the employee was first employed by the Business Applicant prior to January 1, 2019. If an employee was first employed by the Business Applicant after January 1, 2019, then the Business Applicant may provide a copy of the W-4 and the two most recent pay stubs. "Most recent" means the two regular pay periods most proximate to the date the application is submitted to the Department. In lieu of W-4s, a Business Applicant may submit copies of the New Hire Reporting Form that it submitted to the Illinois Department of Employment Security for that employee;
 - the Business Applicant's most recent payroll run; and
 - the residency records for the employee or the arrest, conviction or adjudication records. If the employee is a member of an impacted family, the Business Applicant shall also provide proof of the employee's relation to the individual who was arrested for, convicted of, or adjudicated delinquent for an offense eligible for expungement under the CI Act.
- v) Impact of Cannabis-Related Laws. The Business Applicant shall provide a brief narrative of how the Business Applicant, its owners, or its employees were directly and adversely impacted by the enforcement of cannabis-related laws and any supporting documents (e.g., criminal history or case records, affidavits of impacted individuals, public records and news articles; evidence of business or employment opportunities being denied because of criminal history, etc.).

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- vi) Maintenance of Status. A statement that a Business Applicant approved for a conditional commitment letter will maintain its status as a Social Equity Applicant.
- 2) Company Information
- A) History of the Company. A brief history of the Business Applicant and the employee headcount in each year the business has been in operation (limited to the past five years). If the Business Applicant has been in operation for less than one year, only the current headcount is required.
 - B) Market Information/Business Plan. To the extent available, information on the Business Applicant's intended products or services and identification of existing and potential major customers and competitors. A Business Applicant may substitute a general business plan for a market analysis.
 - C) Project Summary. A description of what the Business Applicant intends to do if it receives a license under the Act and funding under the Program, including the type of license the Business Applicant is seeking under the Act and when it was applied for or when the Business Applicant plans to apply for it.
 - D) Need for Funds. A statement and any supporting justification of a need for support under the Program. The request shall also identify the amount of financial support it seeks from the Department. The request shall also detail how funds borrowed from the Department could be secured and repaid (including the anticipated timing for use and repayment of the funds), and how the Business Applicant intends to use any borrowed funds. The Business Applicant should also indicate whether it would prefer a term loan or access to a line of credit under the Program and demonstrate why such an arrangement would be beneficial.
 - E) Financial Information. If the Business Applicant has been operating for more than six months, it shall provide historic financial statements for each of the past three years (to the extent it

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was operating), if the Business Applicant is not a new plant start-up or new business opportunity (i.e., has not been in operation for more than six months), and interim statements dated no more than 90 days prior to application that include:

- i) profit and loss (income) statements;
 - ii) balance sheets; and
 - iii) disclosure of contingent liabilities (if applicable).
- F) Five-Year Projections. Five-year projections of the profit and loss statement and a breakdown of projected expenses and monthly cash flow over a five-year period.
- G) Site Map (if known). An outline of the general location of the project on a site map, including the location of any floodplain areas. If the site is not known at the time of application, potential sites may be submitted.
- H) Description of Machinery and Equipment (if applicable). Major equipment or classes of equipment to be acquired with the Department's Program funds identified; for acquisition of new machinery and equipment, attachments of reliable vendor cost estimates; for moving and installation costs, attachments of written estimates; and for used machinery and equipment acquisition, an appraisal demonstrating that the fair market value is in line with the purchase price, and a specific description of the equipment, including serial numbers if available.
- I) Company Management. A listing of those individuals who are responsible for the management of the company, their positions and responsibilities, and resumes of key senior individuals (e.g., owner, partner, president, vice president, treasurer) at the company location. Also include information about any long-term management or operational support from investors, incubators, or community-based organizations (or other sources of external support).

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- J) Organizational and Ownership Records. As to the extent the Business Applicant did not provide organizational and ownership records as part of application, the Business Applicant shall provide organizational and ownership records sufficient to explain the legal structure of the Business Applicant's business and to identify all owners and persons having a beneficial interest in the applicant and its business.
 - K) Letters of Commitment (if any). Commitment letters documenting all sources of funding. Loans from investors or lenders must have language indicating the investment or loan amount, the specified term and interest, collateral, conditions attendant to the investment or loan, and whether the investment or loan is approved or contingent.
 - L) Any additional records or information to verify eligibility.
- b) The Department may, at its discretion, accept documentation in place of records listed in subsection (a)(1) when the record has been destroyed, lost, or is otherwise unavailable in the time needed to apply to the Program and for licensure under the Act.
 - c) Should any information change between the time of application submission and the time the Department and the Business Applicant enter into an Agreement, the Business Applicant shall notify the Department of any change.

**Section 650.35 Business Loan and Financial Assistance Application Evaluation
EMERGENCY**

The Department will evaluate eligible applications taking into consideration funding available for the Program, demand to participate in the Program, and availability of licenses under the Act. The Department will also consider a Business Applicant's creditworthiness, the potential economic benefit of the project, and the extent to which a Business Applicant demonstrates that the company, its owners, or its employees have been directly and adversely impacted by the enforcement of cannabis-related laws. Specific terms of any loan or line of credit, including the amount, interest rate, security required, and performance measures, will be determined based on the needs and risk profile of each Business Applicant.

- a) The Department will only evaluate completed applications. The Department will

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deem an application complete only after it has received all information it has requested from the Business Applicant.

- b) General Criteria for Evaluating Applications. The Department will screen all applications to determine that all requirements of the application package have been addressed. A Business Applicant will be notified of deficiencies in its application and given an opportunity to correct any deficiencies through submission of additional documentation. Department staff will conduct a technical and financial evaluation of each application.
- 1) Technical Evaluation. Each application will be reviewed to determine whether issuance of a loan or line of credit will further the goals of the General Assembly as set forth in Section 7-1 of the Act. The evaluation will address the following criteria:
- A) Evidence of Need for Program Funding. The Business Applicant must demonstrate the need for Program funds, including evidence that a loan or line of credit will improve the likelihood of the Business Applicant receiving a license under the Act or that the Business Applicant faces barriers to obtaining sufficient working capital to maintain licensure or operate a successful business without the Department's support. The Department will also evaluate whether the proposed use of funds is consistent with the purposes of the Act.
- B) Project Implementation Readiness. The Business Applicant must demonstrate project readiness, including identifying loans and investments from all lenders and investors (or any such investment that is contingent on receipt of a license or conditional commitment letter); a time schedule for project initiation; commitments from material project partners; and cost estimates that support proposed project costs.
- C) Employment Impact. The application shall provide evidence of: employment impact/opportunity (e.g., potential job creation), including a description of the type and the number of any jobs to be created; the average salary or wage of each position category; and any evidence that the jobs will generate additional wealth or employment opportunities for persons living in Disproportionately

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Impacted Areas or who have been adversely impacted by the enforcement of cannabis-related laws.

- D) **Social Equity Applicant Status.** The Business Applicant must demonstrate that it falls within the definition of Social Equity Applicant. It must also demonstrate that its owners or employees have been directly and substantially adversely impacted by enforcement of cannabis-related laws. Funding may be prioritized for Business Applicants with owners who have arrests or convictions for offenses eligible for expungement under the CI Act. The Department will also consider the extent to which the Business Applicant demonstrates a commitment to retain, hire and promote residents of Disproportionately Impacted Areas or other persons directly and substantially adversely impacted by the enforcement of cannabis-related laws.
- 2) **Financial, Management, and Operational Evaluation.** The Department will conduct an analysis of the Business Applicant's financial information, which may consider the liquidity and debt coverage for the project, ability of the company to manage debt, business trends, and projected earnings. The Department will also consider the extent to which the Business Applicant demonstrates commitments from investors, incubators, community-based organizations, or other external partners to provide long-term operational or management support to the Business Applicant to enable it to secure and maintain licensure. The Department may consider the credit risk of the Business Applicant's owners and officers and the presence of management or a workforce with experience in the cannabis business or comparable industries.

**Section 650.40 Selection for Funding
EMERGENCY**

- a) Applications that best meet the objectives of the Program and demonstrate the greatest potential for benefit to persons and communities directly and adversely impacted by enforcement of cannabis-related laws may be issued conditional commitment letters or approved to participate in the Program. The conditional commitment letters may be provided to and relied upon by DFPR or DOA in scoring applications for licensure under the Act. The conditional commitment letters will indicate that the Business Applicant is eligible for funding under the

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Program if it is issued a license under the Act. The amount of funding will be expressed as a minimum amount, but the total funding amount will be determined after licenses have been issued.

- b) **Funding Terms.** The amount of funding available to a Business Applicant, the repayment terms, the applicable interest rates, and other terms will be determined after the Business Applicant is verified to be a Qualified Social Equity Applicant.
- c) **Conditions to Close.** To proceed to closing, a Qualified Social Equity Applicant must maintain its eligibility for the loan or line of credit and comply with all pre-closing instructions. The Department will verify that the Business Applicant remains eligible prior to closing, and it may decline issuance of a loan or line of credit if the Business Applicant ceases to be a Social Equity Applicant, if funding from the Department is not necessary due to additional investment in the company post-license issuance, or if the Business Applicant is unable to fulfill all terms of the loan or line of credit agreement.

**Section 650.45 Loan and Financial Assistance Administrative Requirements
EMERGENCY**

- a) **Agreement.** A borrower must comply with all terms of the loan or line of credit Agreement, as applicable. A borrower must be able to make all representations, warranties, and covenants set forth in the Agreement. In the event of default under the Agreement, the Department and the borrower may enter into a forbearance agreement at the sole discretion of the Department.
- b) **Security.** The Department may protect its interests in the event of default by requiring personal guarantees from the borrower's principals (all individuals/entities owning or controlling 20% or more of the borrower) or other persons with a material interest in the borrower.
- c) **Use of Proceeds.** The funding made available is to be used for the borrower's ordinary and necessary expenses to start and operate a cannabis business establishment. Proceeds may not be used on capital expenditures unless otherwise approved by the Department.
- d) **Payments.** Payments shall be due and payable to the Department in the method and times specified in the Agreement. Unless otherwise provided in the Agreement, all payments shall be applied first to interest and then to principal on

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all simple interest loans. All payments on amortized loans will be applied to the amortization schedule as stated.

- e) Reporting. A borrower shall provide, at least quarterly, information and reports required by the Department (e.g., reports on job creation/retention; uses of proceeds; financial statement of assets and liabilities; statements of status as a Qualified Social Equity Applicant; and changes in owners, officers and directors).
- f) Monitoring and Evaluation. A borrower must permit any agent authorized by the Department, the Illinois Attorney General, the Illinois Auditor General, or any other legal authority, upon presentation of credentials, to have full access to and the right to examine any documents, papers, and records of the borrower involving transactions related to the Program.
- g) Records. A borrower shall keep detailed records of the project and the use of proceeds. A borrower of more than \$100,000 is required to furnish to the Department, with the submission of financial statements following the expenditure of project funds, a copy of any audit reports received during a specified period. The Department, pursuant to the Agreement, may require a borrower to undergo an audit to verify the use of loan or line of credit proceeds.
- h) Performance Requirements. The Department may require a borrower to meet certain economic development objectives (e.g., create a minimum number of full-time jobs within a certain time or achieve certain job quality standards identified in an Agreement).
- i) Transfer of License. Loans and lines of credit will not be transferrable, and any outstanding amount owed by a borrower at the time of a transfer of its license shall be paid by the new license holder, along with any waived fees. (See Section 7-25 of the Act.)
- j) Confidentiality. Any documentary materials or data made available or received by the Department or any agent of the Department shall be deemed confidential and shall not be deemed public records to the extent that the materials or data consists of trade secrets, commercial or financial information regarding the operation of the business conducted by the applicant or borrower, or any information regarding the competitive position of a business in a particular field of endeavor, or any information, the disclosure of which would be an unwarranted invasion of personal privacy (e.g., criminal history record information or information about the impact

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of the enforcement of cannabis-related laws on a specific person or family). Nothing in this subsection shall prevent the Department from sharing information with other governmental entities. The names of borrowers and the amounts of any financial assistance shall be considered a public record.

ILLINOIS GAMING BOARD

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- 1) Heading of the Part: Sports Wagering
- 2) Code Citation: 11 Ill. Adm. Code 1900
- 3)

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
1900.110	New Section
1900.120	New Section
1900.130	New Section
1900.150	New Section
1900.160	New Section
1900.210	New Section
1900.220	New Section
1900.230	New Section
1900.240	New Section
1900.250	New Section
1900.260	New Section
1900.270	New Section
1900.310	New Section
1900.320	New Section
1900.330	New Section
1900.500	New Section
1900.510	New Section
1900.520	New Section
1900.530	New Section
1900.700	New Section
1900.710	New Section
1900.715	New Section
1900.720	New Section
1900.730	New Section
1900.735	New Section
1900.740	New Section
1900.750	New Section
1900.760	New Section
1900.770	New Section
1900.780	New Section
1900.790	New Section
1900.795	New Section
1900.810	New Section
1900.815	New Section

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1900.820	New Section
1900.825	New Section
1900.830	New Section
1900.835	New Section
1900.840	New Section
1900.850	New Section
1900.860	New Section
1900.870	New Section
1900.880	New Section
1900.890	New Section
1900.895	New Section
1900.910	New Section
1900.915	New Section
1900.920	New Section
1900.925	New Section
1900.930	New Section
1900.935	New Section
1900.940	New Section
1900.945	New Section
1900.950	New Section
1900.960	New Section
1900.970	New Section
1900.980	New Section
1900.990	New Section
1900.995	New Section

- 4) Statutory Authority: Section 25-15 (b) of the Sports Wagering Act [230 ILCS 45/25-15 (b)] provides that: "The Board may adopt any rules the Board considers necessary for the successful implementation, administration, and enforcement of this Act, except for Section 25-70. Rules proposed by the Board may be adopted as emergency rules pursuant to Section 5-45 of the Illinois Administrative Procedure Act."
- 5) Effective Date of Rules: December 19, 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: The emergency amendments 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: December 19, 2019

ILLINOIS GAMING BOARD

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- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the Illinois Gaming Board's principal office and is available for public inspection.
- 9) Reason for Emergency: The General Assembly has recognized in Section 25-15 (b) of the Sports Wagering Act that emergency rulemaking is appropriate "for the successful implementation, administration and enforcement of the Act."
- 10) A Complete Description of the Subjects and Issues Involved: These emergency rules implement the provisions of the Sports Wagering Act enacted by PA 101-31, effective June 28, 2019, and amended by PA 101-597, effective December 6, 2019. The emergency rules add a new Part to the Illinois Administrative Code entitled "Sports Wagering" [11 Ill. Adm. Code Part 1900]. The new Part contains the following Subparts:
- Subpart A: General Provisions
 - Subpart B: Duties of Licensees
 - Subpart C: Standards of Conduct
 - Subpart E: Licensing Qualifications
 - Subpart G: Licensing Procedures
 - Subpart H: Denials of Applications
 - Subpart I: Disciplinary Proceedings
- 11) Are there any other rulemakings pending to this Part? No
- 12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under 30 ILCS 805.
- 13) Information and questions regarding these emergency rules shall be directed to:

Agostino Lorenzini
General Counsel
Illinois Gaming Board

ILLINOIS GAMING BOARD

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160 North LaSalle Street
Chicago IL 60601

fax: 312/814-7253

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

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

PART 1900
SPORTS WAGERING

SUBPART A: GENERAL PROVISIONS

Section

1900.110 Board Meetings

EMERGENCY

1900.120 Definitions

EMERGENCY

1900.130 Cooperation with Investigations

EMERGENCY

1900.150 Licenses Required

EMERGENCY

1900.160 Service Via E-Mail

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SUBPART B: DUTIES OF LICENSEES

Section

1900.210 General Duties of All Licensees

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1900.220 Continuing Duty to Report Information

EMERGENCY

1900.230 Duties of Master Sports Wagering Licensees

EMERGENCY

1900.240 Duties of Licensed Suppliers

EMERGENCY

1900.250 Duties of Management Services Provider Licensees

EMERGENCY

1900.260 Duties of Official League Data Providers

EMERGENCY

1900.270 Duties of Occupational Licensees

EMERGENCY

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SUBPART C: STANDARDS OF CONDUCT

Section

1900.310 Grounds for Disciplinary Actions

EMERGENCY

1900.320 Economic Disassociation

EMERGENCY

1900.330 Record Retention

EMERGENCY

SUBPART E: LICENSING QUALIFICATIONS

Section

1900.500 Coverage of Subpart

EMERGENCY

1900.510 Suitability for Licensure

EMERGENCY

1900.520 Minimum Qualifications

EMERGENCY

1900.530 Identification and Requirements of Key Persons

EMERGENCY

SUBPART G: LICENSING PROCEDURES

Section

1900.700 Coverage of Subpart

EMERGENCY

1900.710 Submission of Applications

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

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SOURCE: Adopted by emergency rulemaking at 44 Ill. Reg. 314, effective December 19, 2019, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

**Section 1900.110 Board Meetings
EMERGENCY**

- a) The provisions of 86 Ill. Adm. Code 3000.105 shall apply to Board meetings under the Act except 86 Ill. Adm. Code 3000.105(f).
- b) Requests for Board action by a master sports wagering licensee, management services provider licensee, supplier licensee, or tier 2 official league data provider licensee shall be given initial consideration by the Board at one meeting and be given final consideration by the Board at a subsequent meeting. The Board may waive this requirement by motion.

**Section 1900.120 Definitions
EMERGENCY**

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

"Abnormal wagering activity": Wagering activity exhibited by patrons and deemed by the master sports wagering licensee or management services provider licensee as a potential indicator of suspicious activity. Abnormal wagering activity may include the size of a patron's wager or increased wagering volume on a particular event or wager type. Abnormal wagering activity may include a pattern of behavior by one or more patrons.

"Act": The Sports Wagering Act, 230 ILCS 45/25 et seq.

"Affiliate": An "affiliate of," "affiliated entity of," or person "affiliated with" another person shall mean a person that directly, or indirectly through one or more intermediaries, owns, controls, is controlled by, or is under common ownership or control with, the other person.

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

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"Application": All material, including the instructions, definitions, forms and other documents issued by the Illinois Gaming Board, or submitted to the Illinois Gaming Board by an applicant.

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

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

"Collegiate sport or athletic event": An intercollegiate contest, event, or game at which two or more persons participate, conducted under the auspices of a Board recognized college sports governing body.

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

"Designated Gaming Area": The portion of a facility not accessible to the public in which the actual operation of sports wagering occurs, including, but not limited to, the employee side of a sports betting window or counter, surveillance rooms, count rooms, or rooms containing wagering equipment other than publicly accessible and operational kiosks.

"Institutional investor":

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

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

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

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

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

A federal or state bank;

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

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

"Key Person": A person identified by the Board as subject to regulatory approval as a person able to control or exercise significant influence over the management, assets, or operating policies of master sports wagering, management services provider, supplier or tier 2 official league data provider licensee.

"Kiosk": Any kiosk, terminal, machine, or other device through which a patron may place or redeem an in person wager without requiring the involvement of an employee.

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

"Licensee": A person that holds a license granted by the board pursuant to the Act.

"Minor league": Those events, contests, individuals, and entities affiliated with a sports governing body which do not constitute the highest level of play or competition under that sports governing body.

"Occupational licensee": An individual who holds an occupational license granted by the Board under the Act.

"Official league data provider": An individual, partnership, corporation or limited liability company that is licensed under the Act to provide official league data

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pursuant to an agreement with a relevant sports governing body for determining the outcome of tier 2 sports wagers.

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

"Person": An individual, partnership, committee, association, corporation, or any other organization or group of persons.

"Problem gambling": A repetitive set of gaming behaviors that negatively impacts someone's life.

"Professional sport or athletic event": A contest, event, or game at which two or more persons participate and receive compensation in excess of actual expenses for their participation in such event.

"Redemption kiosk": Any kiosk, terminal, machine, or other device through which a patron may redeem an in person wager without requiring the involvement of an employee.

"Responsible gaming": All of the following:

Policies for reducing harms related to gaming;

Providing a transparent and fair game;

Playing within time and money limits; and

Gaming for entertainment and fun.

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

"Sports wagering operation": The conduct of authorized sports wagering under the Act and all related activities, including but not limited to: accepting wagers, redeeming wagers, accounting, security, surveillance, marketing, and advertising.

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"Supplier": An individual, partnership, corporation or limited liability company that is licensed under the Act to sell or lease sports wagering equipment, systems, or other gaming items to conduct sports wagering and offer services related to the equipment or other gaming items and data to a master sports wagering licensee.

"Suspicious wagering activity": Unusual betting activity which cannot be explained and may be indicative of match fixing, the manipulation of an event, misuse of inside information, money laundering or other prohibited or illegal activity.

"Wagering equipment": A machine, mechanism, device, or implement which is integral to the operation of sports wagering, or which monitors, records, or determines the outcome of any wager, including without limitation: electronic, electrical, or mechanical devices for the making or recording of wagers; any system for displaying or determining wager information; any kiosk, terminal, or other device for the redemption of a wager; computer monitoring systems; and hardware and software related to any item described herein.

"Wagering kiosk": Any kiosk, terminal, machine, or other device through which a patron may place an in person wager without requiring the involvement of an employee.

**Section 1900.130 Cooperation with Investigations
EMERGENCY**

The Board finds that the integrity of sports wagering and the health, safety, and welfare of the people of the State of Illinois can be ensured only through cooperation by the Board, law enforcement agencies, licensees, and sports governing bodies.

- a) Board cooperation with investigations by law enforcement agencies and sports governing bodies
 - 1) A law enforcement agency or sports governing body may submit a request for cooperation to the Administrator. The request for cooperation shall be in writing and include the following:
 - A) name and address of the agency or entity making the request;

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- B) name, title, phone number, and email address of the individual making the request;
 - C) a summary of the general nature of the conduct under investigation; and
 - D) a description of the information, data, records, or other cooperation desired.
- 2) The Administrator may grant or deny the request for cooperation. Denial of a request for cooperation shall be in writing. In evaluating a request for cooperation, the Administrator shall consider all factors, including, but not limited to:
- A) the nature and extent of cooperation requested;
 - B) the nature of the behavior being alleged;
 - C) the benefit to the integrity and security of sports wagering in the state of Illinois; and
 - D) whether and to what extent granting the request would adversely impact the ongoing operations of the Board, the State of Illinois, or the sports wagering industry in Illinois.
- b) Licensee cooperation with investigations by law enforcement agencies and sports governing bodies
- 1) A law enforcement agency or sports governing body may submit a request for cooperation to a master sports wagering licensee or management services provider licensee, with a copy submitted to the Administrator. The request for cooperation shall be in writing and include the following:
- A) name and address of the agency or entity making the request;
 - B) name, title, phone number, and email address of the individual making the request;

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- C) a summary of the general nature of the conduct under investigation; and
 - D) a description of the information, data, records, or other cooperation desired.
- 2) The licensee may voluntarily grant or deny the request for cooperation. Denial of a request for cooperation shall be in writing, and submitted to the requesting entity and the Administrator. A denial of a request for cooperation by a master sports wagering licensee must be for good cause, and include a detailed explanation as to why the licensee will not cooperate.
 - 3) Upon receiving a denial of a request for cooperation from a licensee, the Administrator may issue an order requiring the licensee to cooperate with the request. In determining whether to issue such an order, the Administrator shall consider all factors listed in subsection (a)(2).

**Section 1900.150 Licenses Required
EMERGENCY**

No person may engage in any activity relating to sports wagering in this State unless all required licenses have been obtained in accordance with this Act and the rules of the Board [230 ILCS 45/25-20(a)].

- a) Master sports wagering license. To conduct sports wagering, an owners licensee, organization licensee, online sports wagering operator, or sports facility is required to hold a master sports wagering license.
 - b) Occupational license. A person employed by a master sports wagering licensee or management services provider licensee, and who works in a designated gaming area or performs duties in furtherance of or associated with the operation of sports wagering by the master sports wagering licensee, is required to hold an occupational license. An occupational licensee may perform any activity included within the licensee's level of occupational license or any lower level of occupational license.
- 1) Level 1 occupational license includes the following positions, or their equivalent:

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- A) Audit Manager;
 - B) Chief Compliance Officer;
 - C) Chief of Security;
 - D) Chief of Surveillance;
 - E) Chief Financial Officer and/or Controller;
 - F) General Manager;
 - G) IT Manager;
 - H) Sports Wagering Manager;
 - I) Any individual with direct authority over the setting of betting lines, point spreads, odds, or their equivalent;
 - J) Any other individual who the Board determines holds a position or a level of ownership, control or influence that is material to the regulatory concerns and obligation of the Board for the specified licensee or applicant.
- 2) Level 2 occupational license. A security, surveillance, or sports wagering employee not required to hold a level 1 occupational license under paragraph (1) of subsection (b).
 - 3) Level 3 occupational license. Any employee not already required to hold a level 1 or level 2 occupational license who by nature of their employment has unsupervised access to a designated gaming area.
- c) Supplier License. The following persons are required to hold a supplier license:
- 1) Seller or lessor of wagering equipment, systems, or other items to conduct sports wagering, including a manufacturer, distributor, wholesaler, or retailer.
 - 2) Provider of wagering equipment maintenance or repair services.

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- 3) Provider of gaming data, including but not limited to the setting of betting lines or odds making.
 - 4) Provider of security services at designated gaming areas.
 - 5) Any other purveyor of goods, data, or services to a master sports wagering licensee or management services provider licensee, as deemed necessary by the Board.
- d) Management services provider license. Any person contracting with a master sports wagering licensee to conduct the operation of sports wagering on behalf of the master sports wagering licensee is required to hold a management services provider license.
- e) Tier 2 official league data provider license. Any sports governing body, league, organization, or association, or a vendor authorized by such sports governing body, league, organization, or association providing tier 2 official league data is required to hold a tier 2 official league data provider license.

**Section 1900.160 Service Via E-Mail
EMERGENCY**

- a) As a condition of application and licensure, applicants and licensees consent to receiving service of Illinois Gaming Board notices and letters via e-mail from the Illinois Gaming Board unless other means of service are required by rule.
- b) Each applicant and licensee has an ongoing duty to update the e-mail address at which it may be served if such an address changes, and to verify that the application has an updated e-mail address no less than annually by the Illinois Gaming Board.
- c) Each applicant and licensee may designate up to two additional e-mail addresses at which notice may be served. Each designated e-mail address must be owned by the applicant or licensee if an individual, or by the applicant, licensee, its owner, or a key person of the applicant or licensee if a business entity.

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- d) E-mail notices shall be deemed served on the date of the transmission, unless a delivery error is received on the Illinois Gaming Board's e-mail server for all of the licensee's designated e-mail addresses.
- e) If a delivery error is received by the Illinois Gaming Board for all of the applicant's or licensee's designated e-mail addresses, then the notice or letter will be served via personal service or certified U.S. mail, until the applicant or licensee updates the designated e-mail address.

SUBPART B: DUTIES OF LICENSEES

**Section 1900.210 General Duties of All Licensees
EMERGENCY**

In addition to all other duties and obligations required by the Sports Wagering Act and this Part, each licensee and applicant for licensure under the Act has an ongoing duty to:

- a) Comply with all federal, State and local laws and regulations;
- b) Comply with all adopted internal controls of a master sports wagering licensee;
- c) At all times, conduct themselves in a professional manner when communicating with licensees, the public and the Board;
- d) Disclose all ownership interests to the Board in accordance with the Act and this Part;
- e) Conduct the licensee's sports wagering operation in a manner that does not pose a threat to the public health, safety, morals, good order or general welfare of the people of the State of Illinois;
- f) Conduct the licensee's sports wagering operation in a manner that does not discredit or tend to discredit the Illinois gaming industry or the State of Illinois;
- g) Conduct the licensee's sports wagering operation in a manner that does not reflect adversely on the security or integrity of the Illinois sports wagering industry;
- h) Keep current in all payments and obligations to the State of Illinois and to other licensees with whom sports wagering business is conducted;

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- i) Maintain suitability for licensure at all times; and
- j) Cooperate with Board investigations.

**Section 1900.220 Continuing Duty to Report Information
EMERGENCY**

Licensees, key persons, and applicants for licensure under the Act have a continuing duty to report certain information to the Administrator or his or her designee.

- a) Licensees, key persons, and applicants for licensure under the Act must report promptly the following information to the Administrator or his or her designee as soon as is reasonably possible:
 - 1) any fact, event, occurrence, matter or action that may affect the conduct of sports wagering or the business and financial arrangements incidental to the conduct of sports wagering, or the ability to conduct the activities for which the licensee is licensed;
 - 2) each arrest, summons, citation or charge for any criminal offense or violation, excluding minor traffic violations, if such disclosure would have been required at time of application. Information to be reported under this subsection shall include, but not be limited to, all changes relating to criminal arrest or criminal proceeding disposition history concerning any criminal offense under the laws of any jurisdiction or the Uniform Code of Military Conduct, in any state or foreign country;
 - 3) identity of key persons; and
 - 4) any changes in or new agreements relating to designees pursuant to Section 25-40 of the Act, if such agreements or changes will go into effect in less than 30 days.
- b) Licensees, key persons, and applicants for licensure under the Act must report the following information to the Administrator or his or her designee within 30 days:
 - 1) any changes or additions to material information provided in an application for licensure under the Act;

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- 2) any changes in or new agreements relating to designees pursuant to Section 25-40 of the Act;
- 3) having been named as a defendant in any civil action based in whole or in part on allegations of conduct that constitutes fraud, misrepresentation or omission of material information, breach of fiduciary duty, unfair or deceptive trade practices, or a violation of the Illinois False Claims Act or any similar law in any other jurisdiction;
- 4) identity and contact information of legal counsel, if any; and
- 5) any adverse action taken, nonrenewal, or failure to timely renew relative to a gaming license or gaming operation in any other jurisdiction.

**Section 1900.230 Duties of Master Sports Wagering Licensees
EMERGENCY**

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

- a) For master sports wagering licensees other than online sports wagering operators, maintain a secure premise for the conduct of a sports wagering operation;
- b) Prevent unaccompanied access to designated gaming areas by individuals that do not hold occupational licenses;
- c) Maintain an approved method of payout for valid receipt tickets and redeem for cash each valid receipt ticket that is within its redemption period;
- d) Assume the primary responsibility for the sports wagering operation;
- e) Assume responsibility for payment of tax remittance to the State as required by the Act.
- f) As required by the Board, obtain and install, at no cost to the State, all hardware, software and related accessories necessary to allow for remote monitoring of sports wagering by the Board;

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- g) Accept no prohibited wagers;
- h) Install, post and display signs as required by the Board, including signs indicating that sports wagering is limited to persons 21 years of age or older, and signs relating to problem gambling;
- i) Provide the Board an accounting of all wagering activity or any subset of wagering activity upon request;
- j) Make commercially reasonable efforts to promptly notify the Board and any relevant sports governing body of any information relating to:
 - 1) abnormal wagering activity or patterns that may indicate a concern with the integrity of a sports event or sports events;
 - 2) any potential breach of the relevant sports governing body's internal rules and codes of conduct pertaining to sports wagering of which a licensee has knowledge;
 - 3) any other conduct that corrupts a wagering outcome of a sports event or sports events for purposes of financial gain, including match fixing;
- k) Make commercially reasonable efforts to promptly notify the Board of any information relating to:
 - 1) criminal, disciplinary, or regulatory proceedings commenced against the master sports wagering licensee or affiliated person in connection with its gaming operations in any jurisdiction;
 - 2) suspicious or illegal wagering activities, including use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, using agents to place wagers, and using false identification;
- l) Conduct investigations as to the background and qualifications of all applicants for employment by the licensee who require occupational licensure;

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- m) Provide oversight of any management services provider licensee or other designee with whom the master sports wagering licensee contracts to conduct its sports wagering operation;
- n) Provide to the Board any contract or agreement with a management services provider licensee or other master sports wagering licensee to be a designee under Section 25-40 of the Act;
- o) Document and investigate any report by an employee of any violation of the Act, this Part, or the master sports wagering licensee's internal control system, and provide a summary of such reports and investigations to the Board quarterly; and
- p) Report to the Administrator or his or her designee any facts the licensee has reasonable grounds to believe indicate a violation of the Act, this Part, or the master sports wagering licensee's internal control system.

**Section 1900.240 Duties of Licensed Suppliers
EMERGENCY**

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

- a) Provide technical assistance and training in accordance with the Act and this Part;
- b) Obtain all approvals and certifications required by the Act and this Part or as required by the Board;
- c) Sell, distribute, lease or market in Illinois only sports wagering equipment that has been tested and certified for use in Illinois; and
- d) Promptly notify master sports wagering licensees or management service provider licensees with which the licensed supplier does business if the licensed supplier's hardware or software used in the operation of sports wagering is revoked under any circumstances.

**Section 1900.250 Duties of Management Services Provider Licensees
EMERGENCY**

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

- a) Comply with all duties of a master sports wagering licensee in relation to any sports wagering operation the management services provider licensee conducts on behalf of a master sports wagering licensee; and
- b) Cooperate with oversight and investigations conducted by any master sports wagering licensee with which the management services provider licensee contracts.

**Section 1900.260 Duties of Official League Data Providers
EMERGENCY**

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

- a) Provide to the Board copies of any contracts between the licensee and sports governing bodies pursuant to which the licensee will be providing official league data;
- b) Provide to the Board copies of any contracts between the licensee and any master sports wagering licensees pursuant to which the licensee will be providing official league data;
- c) Provide official league data to master sports wagering licensees on commercially reasonable terms.

**Section 1800.270 Duties of Occupational Licensees
EMERGENCY**

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

- a) Carry and display identification issued by the Board when working at a sports wagering operation;
- b) Return identification to the Board upon resignation or termination of employment; and

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- c) Report violations of the Act, this Part, or a master sports wagering licensee's internal control system to his or her employer.

SUBPART C: STANDARDS OF CONDUCT

**Section 1800.310 Grounds for Disciplinary Actions
EMERGENCY**

- a) Holders of any license issued under the Act and identified key persons shall be subject to imposition of fines, suspension, revocation or restriction of license, or other disciplinary action for any act or failure to act by themselves or by their agents or employees that is injurious to the public health, safety, morals, good order and general welfare of the people of the State of Illinois, or that would discredit or tend to discredit the Illinois sports wagering industry or the State of Illinois. Without limiting the provisions of this subsection (a), the following acts or omissions may be grounds for discipline:
- 1) Failing to comply with or make provision for compliance with the Act, this Part, any federal, State or local law or regulation, or a control system or protocol mandated by the Board;
 - 2) Failing to comply with any order or ruling of the Board or its agents pertaining to the regulation of sports wagering in Illinois;
 - 3) Being found ineligible or having an application for a gaming license denied, or having a gaming license of any kind revoked or suspended in any state or other gaming jurisdiction;
 - 4) Employing, associating with, or participating in any enterprise or business with a documented or identifiable organized crime group or recognized organized crime figure;
 - 5) Employing, associating with, or participating in any enterprise or business with persons of notorious or unsavory reputation or who have extensive police records, or who have failed to cooperate with any officially constituted investigatory or administrative body;

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- 6) Failing to establish and maintain standards and procedures designed to prevent ineligible or unsuitable persons from being employed by the licensee;
- 7) Misrepresenting any information to the Board or Board staff;
- 8) Intentionally making, causing to be made, or aiding, assisting, or procuring another to make any false statement in any report, disclosure, application, permit, form, or any other document, including improperly notarized documents, required by the Act, this Part or Board requirements;
- 9) Submitting tardy, inaccurate, or incomplete material or information to the Board;
- 10) Obstructing or impeding the lawful activities of the Board or its agents;
- 11) Willfully or repeatedly failing to pay amounts due or to be remitted to the State;
- 12) Failing to timely pay amounts due or to be remitted to the State;
- 13) Failing to timely pay a fine imposed by the Board;
- 14) Failing to respond in a timely manner to communications from the Board or its agents;
- 15) Being unavailable to the Board or its representatives or agents;
- 16) Aiding and abetting a violation by a Board member or employee, or other government official, of a requirement established by statute, resolution, ordinance, personnel code or code of conduct;
- 17) Violations of the Act or this Part by any person identified as a Key Person;
- 18) Employing, associating with, or participating in any enterprise or business with a person determined unsuitable to be a licensee or a key person of an applicant or licensee by the Board or any other gaming jurisdiction;

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- 19) Facilitating, enabling or participating in sports wagering other than in accordance with the Act;
 - 20) Engaging in, or facilitating, any unfair methods of competition or unfair or deceptive acts or practices, including, but not limited to, the use or employment of any deception, fraud, false pretense, false promise or misrepresentation, or the concealment, suppression or omission of any material fact in the conduct of any sports wagering operation;
 - 21) Acting in bad faith in the conduct of any business, transaction, or interaction with any other licensee, applicant, or the Board;
 - 22) Failing to maintain minimum qualifications for licensure; and
 - 23) Any cause that, if known to the Board, would have disqualified the applicant from receiving a license.
- b) A licensee whose employment has been terminated is subject to revocation of license for any act or failure to act that occurred while licensed.
 - c) A person who has had a license revoked by the Board may not reapply for a license without permission from the Board.

**Section 1900.320 Economic Disassociation
EMERGENCY**

- a) Each master sports wagering licensee, management service provider licensee, tier 2 official league data provider licensee, and supplier licensee shall provide a means for the economic disassociation of any key person or holder of an ownership interest in the event such economic disassociation is required by an order of the Board.
- b) Based upon findings from an investigation into the character, reputation, experience, associations, business probity, and financial integrity of a key person or a holder of an ownership interest, the Board may enter an order upon a licensee to require the economic disassociation of that person. This includes, but is not limited to any criteria sufficient for denial of a license under the Act.

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- c) Either the licensee or a person whose economic disassociation has been ordered may contest the order under the provisions of Subpart I. Any hearing relating to an order of economic disassociation shall be a hearing on the merits of the Board's determination that economic disassociation is warranted. Either party may participate in the administrative hearing regardless of which party requested the hearing.
- d) In the event that an order of economic disassociation is contested in an administrative hearing, payments owed to the disassociated individual or entity shall be abated and held in escrow until the Board issues a final Board order.
 - 1) If the final Board order results in an economic disassociation, no further payments may be made to the disassociated individual or entity.
 - 2) If the final Board order does not economically disassociate the individual or entity, then the abated payments shall be paid.
- e) A violation of an order of economic disassociation may subject a licensee to discipline under Section 1900.310.

**Section 1900.330 Record Retention
EMERGENCY**

- a) Each licensee other than an occupational licensee shall maintain in a place secure from theft, loss or destruction adequate records of business operations which shall be made available to the Board upon request. These records shall be held for at least as long as prescribed by the periodically published Records Retention Schedule, or longer if otherwise prescribed by general accounting and auditing procedures, litigation needs, or state or federal law. These records shall be maintained in a manner accessible to the Board or as otherwise prescribed by the Board.
- b) Each master sports wagering licensee, in such manner and for such time period as the Administrator may approve or require, shall keep accurate, complete and legible records of any books, records or document pertaining to, prepared in, or generated by the sports wagering operation, regardless of physical form or characteristics or subject matter, including, but not limited to, all forms, reports, accounting records, ledgers, subsidiary records, computer maintained and

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generated data, internal audit records, internal control records, copies of all promotional material and advertising, correspondence and personnel records.

- c) All records shall be organized and indexed in such a manner to provide immediate accessibility to agents of the Board.
- d) No original book, record or document required to be maintained by this Section may be destroyed by a licensee prior to the scheduled retention date without prior approval of the Administrator.
- e) The Administrator shall publish and periodically update the Retention Schedule.

SUBPART E: LICENSING QUALIFICATIONS

**Section 1900.500 Coverage of Subpart
EMERGENCY**

The rules contained in this Subpart shall govern qualifications for all types of licenses issued by the Board pursuant to the Act.

**Section 1900.510 Suitability for Licensure
EMERGENCY**

- a) The burden is upon each applicant to demonstrate suitability for licensure.
- b) The Board shall not grant a license to any applicant if that person has been found by the Board to:
 - 1) have a background, including a criminal record, reputation, habits, social or business associations, or prior activities that:
 - A) poses a threat to the public interests of the State or to the security and integrity of sports wagering;
 - B) poses a threat to public health, safety, morals, good order and general welfare of the people of the State of Illinois; or
 - C) discredits or tends to discredit the Illinois sports wagering industry or the State of Illinois.

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- 2) create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of sports wagering; or
 - 3) present questionable business practices and financial arrangements incidental to the conduct of sports wagering.
- c) In addition to the qualifications required in the Act and this Part, the Board may deny a license to an applicant if the applicant, or a key person of the applicant:
- 1) associates with, either socially or in business affairs, or employs a person:
 - A) of notorious or unsavory reputation or who has extensive police records;
 - B) who has been convicted of a disqualifying offense under Section 1900.520(c); or
 - C) who has failed to cooperate with any officially constituted investigatory or administrative body including, but not limited to, the Board.
 - 2) has had a sports wagering or gaming-related license revoked, suspended or denied in Illinois or any other jurisdiction, or is an affiliate of a person who has had a sports wagering or gaming-related license revoked, suspended, or denied in any other jurisdiction.

Section 1900.520 Minimum Qualifications**EMERGENCY**

- a) An applicant for a master sports wagering license, supplier license, management service provider license, or tier 2 official league data supplier license is not eligible for the respective license if the applicant, any owner of the applicant, any key person of the applicant, or any employee who participates in the management of sports wagering operations authorized under this Act:
 - 1) has been convicted of a felony under the laws of this State, any other state, or the United States;

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- 2) has been convicted of any violation of Article 28 of the Criminal Code of 1961 or the Criminal Code of 2012, or substantially similar laws of any other jurisdiction; or
 - 3) has submitted an application for a license under this Act or any other documentation to the Board which contains false information.
- b) In addition to the requirements of paragraph (a) of this Section, an online sports wagering operator applying to the Board for a master sports wagering license pursuant to Section 25-45 of the Act is not eligible for licensure if the applicant, any owner of the applicant, any key person of the applicant, or any employee who participates in the management or operation of sports wagering operations authorized under this Act has been convicted of a crime involving dishonesty or moral turpitude.
- c) A person applying to the Board for an occupational license pursuant to Section 25-15(e) of the Act must be an employee of a master sports wagering or management services provider licensee, and meet the same requirements as an applicant for an occupational licensee pursuant to Section 9 of the Illinois Gaming Act [230 ILCS 10/9].

**Section 1900.530 Identification and Requirements of Key Persons
EMERGENCY**

- a) Applicants and licensees shall disclose the identity of key persons. Key persons must be approved by the Board and maintain suitability as a key person of the licensee.
- b) With respect to an applicant for or the holder of a master sports wagering license or management service provider license, key person shall include:
 - 1) any person with an ownership interest or voting rights of 5 percent or more in the licensee or applicant, and the trustee and beneficiaries of any trust holding such ownership interest or voting rights; and
 - 2) the directors of the licensee or applicant and its Chief Executive Officer, Chief Operating Officer, and Chief Financial Officer or their functional equivalents and any managers of a limited liability company.

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- c) With respect to an applicant for or holder of a supplier license or a tier 2 official league data provider license, key person shall include:
- 1) any person with an ownership interest or voting rights of 5 percent or more in the licensee or applicant, and the trustee and beneficiaries of any trust holding such ownership interest or voting rights; and
 - 2) the Chief Executive Officer, Chief Operating Officer and Chief Financial Officer or their functional equivalents.
- d) In addition to the persons named in subsections (b) and (c), the key persons include all other persons that the Board determines hold a position or a level of ownership, control or influence that is material to the regulatory concerns and obligations of the Board for the specified licensee or applicant.
- e) Individuals required to hold a level 1 occupational license, pursuant to Section 1900.150(b), may also be certified by the Board as key persons. For such individuals, the disclosure and approval requirements and the standards for compliance with this Part shall be those related to key persons.
- 1) An individual denied an occupational license or whose license is revoked by a final determination of the Board is unsuitable to be, and shall not be allowed to function as a key person of any applicant or licensee.
 - 2) An individual who, by voluntary action, relinquishes status as a level 1 occupational licensee and remains or becomes a key person shall be required to comply with all requirements imposed by the Board and this Part upon key persons.
- f) Each person designated as a key person shall:
- 1) file an individual personal disclosure form or business entity disclosure form;
 - 2) file, on an annual basis, a disclosure affidavit, updated personal and background information, and updated tax and financial documents and information;

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- 3) comply with the applicable provisions of this Part and disclose promptly to the Board within 30 days, any material changes in status or information previously provided to the Board;
 - 4) as required, cooperate fully with Board agents any investigation conducted by the Board;
 - 5) maintain suitability as a key person; and
 - 6) be subject to a fine or other appropriate discipline for each act or omission that is grounds for discipline of a licensee under the provisions of Section 1900.310.
- g) An individual identified as a key person of a master sports wagering licensee or management services provider licensee shall not act in that role until after submission of individual key person personal disclosure form.

SUBPART G: LICENSING PROCEDURES

**Section 1900.700 Coverage of Subpart
EMERGENCY**

The rules contained in this Subpart shall govern procedures for applying for, renewing and maintaining all types of licenses issued by the Board pursuant to the Act.

**Section 1900.710 Submission of Applications
EMERGENCY**

- a) Applicants shall submit electronic copies of the application forms in the manner provided for in the instructions contained in the forms.
- b) Application Forms.
 - 1) Master sports wagering license and management services provider license.
 - A) An applicant that holds or is a current applicant for an owners license or organization gaming license under the Illinois Gambling Act may submit a Master Sports Wagering License Application/Management Services Provider (Short Form). The

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applicant must also submit all required forms and documents referenced in the License Application (Short Form).

- B) All other applicants for a master sports wagering license and management services provider license shall submit a Master Sports Wagering/Management Services Provider License Application, and must include Business Entity Disclosure Forms or Individual Key Person Personal Disclosure Forms for each of the applicant's key persons.
- 2) Supplier license and tier 2 official league data provider license.
- A) An applicant that holds or is a current applicant for a supplier license under the Illinois Gambling Act or a manufacturer, distributor, or supplier license under the Video Gaming Act may submit a Sports Wagering Act Supplier/Tier 2 Official League Data Provider License Application (Short Form). The applicant must also submit all required forms and documents referenced in the License Application (Short Form).
 - B) All other applicants shall submit a Supplier's License Application Form, and must include Business Entity Disclosure Forms or Individual Key Person Personal Disclosure Forms for each of the applicant's Key Persons.
- 3) Occupational license.
- A) Applicants for a level 1 occupational license shall submit a Personal Disclosure Form 1.
 - B) Applicants for a level 2 occupational license shall submit a Personal Disclosure Form 2.
 - C) Applicants for a level 3 occupational license shall submit a Personal Disclosure Form 3.
 - D) All applicants for occupational licenses shall be photographed and fingerprinted.

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- c) Additional Forms. To be considered complete, an application must also include any additional forms as identified in Sections 1900.715 and 1900.720.
- d) The Board may require further materials in addition to those identified in subsection (b) if after review of the submitted materials the Board determines additional information is necessary to determine the applicant's suitability for licensure.
- e) Application Process.
 - 1) Each individual applicant or key person shall submit with the application, on forms prescribed by the Board, two sets of his or her fingerprints. Each individual applicant and key person shall be photographed and fingerprinted at the time of application at a place designated by the Administrator.
 - 2) An application shall be deemed filed when the completed application form, including all required documents, materials, necessary fingerprinting, and the application fee, if any, have been submitted to the Board.
- f) Amendments and Incorporation by Reference. Upon written request, the Administrator may allow information, documents, or other materials submitted by an applicant to be incorporated by reference into a subsequent application.

**Section 1900.715 Disclosure of Ownership and Control
EMERGENCY**

- a) As part of its application, each applicant for or holder of a Master Sports Wagering, Supplier, Management Services Provider or Tier 2 Official League Data Provider license shall provide to the Board and maintain on a current basis a Table of Organization, Ownership and Control. The Table of Organization, Ownership and Control shall contain the information required by this Section, in sufficient detail to identify the hierarchy of individuals and Business Entities that, through direct or indirect means, manage, own or control the interests and assets of the applicant or license holder.

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- b) Direct Ownership or Control. The Table of Organization, Ownership and Control shall identify the following information concerning the direct management, ownership and control of the applicant or license holder.
- 1) The name and percentage of ownership of each individual or Business Entity with an ownership interest in the applicant or licensee. If the licensee or applicant is a Business Entity whose stock is traded publicly, the identification of ownership shall be provided as required in subsection (d).
 - 2) A table of organization reflecting the management and governance structure of the licensee or applicant, including the name and office or position of each individual serving as an officer, director or member of an executive committee or similar governing body and identifying each managerial position and each managerial employee reporting directly to an officer of the company or its board of directors.
 - 3) For each trust holding ownership interest, and for each voting trust, the name of the grantors, trustees and beneficiaries of the trust.
 - 4) For each Business Entity with an ownership interest, the name and position of each officer, director and all persons reporting to the chief executive officer or the board of directors of the Business Entity, and in the case of each privately held Business Entity the names of all persons with an ownership interest.
- c) Intermediary Entities and Ultimate Ownership. To the extent that ownership of or control over the applicant or licensed entity is exercised through intermediary Business Entities, the Table of Organization, Ownership and Control must identify, in hierarchical fashion, all such intermediary entities and their officers, directors, trustees, shareholders or other persons reporting to the chief executive officer or board of directors, and provide similar information on any parent Business Entity. If the intermediary entity or ultimate parent is a publicly traded company, the ownership identification requirements for this Business Entity shall be provided as required in subsection (d).
- d) Publicly Traded Company Ownership. If a Business Entity identified in subsection (b) or (c) is a publicly traded company, the following information shall be provided in the Table of Organization, Ownership and Control:

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- 1) The name and percentage of ownership interest of each individual or Business Entity with ownership of more than 5 percent of the voting shares of the entity, to the extent such information is known or contained in 13D or 13G Securities and Exchange Commission filings.
- 2) To the extent known, the names and percentage of interest of ownership of persons who are relatives of one another and who together (as individuals or through trusts) exercise control over or own more than 10 percent of the voting shares of the entity.
- 3) Any trust holding a more than 5 percent ownership or voting interest in the company, to the extent such information is known or contained in 13D or 13G Securities and Exchange Commission filings.

Section 1900.720 Other Required Forms**EMERGENCY**

- a) Institutional Investor Disclosure Form. Any business entity that meets the definition of an institutional investor and that would otherwise be required to submit a Business Entity Disclosure Form may instead submit the Institutional Investor Disclosure Form.
- b) Trust Registration and Disclosure Form. Level 1 occupational licensees and key persons of any other applicant or licensee shall submit a Trust Registration and Disclosure Form for any trust that holds a direct or indirect interest in any gaming entity that is subject to regulation by a gaming jurisdiction for which they are a grantor, trustee or beneficiary, or for any other trust in which they have an interest, if so requested by the Board. Such disclosures are material information for the purposes of Section 1900.220 (b).

Section 1900.730 Licensing Procedures**EMERGENCY**

- a) Applicants for licensure under the Act shall be subject to the following procedures prior to licensing:
 - 1) Application;

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- 2) Investigation of the applicant; and
 - 3) Action of the Board.
- b) An applicant is responsible for compliance with all requests for information, documents, or other materials relating to the applicant and the applicant's application.
- c) An applicant must satisfy the Board by clear and convincing evidence that the applicant is suitable for licensure under the Act and Board rules.
- d) Action of the Board
- 1) If the Board finds the applicant suitable for licensing, it shall direct the Administrator to issue the applicant a license upon payment of the applicant's license fee, if any, required by the Act.
 - 2) If the Board finds the applicant not suitable for licensing, it shall issue the applicant a Notice of Denial. The Notice of Denial shall be served upon the applicant in accordance with Section 1900.160.
- e) Request for Hearing.
- 1) An applicant who is served with a Notice of Denial may request a hearing in accordance with Subpart H.
 - 2) If a hearing is not requested, the Notice of Denial becomes the final order of the Board denying the applicant's license application.

Section 1900.735 Issuance of License
EMERGENCY

- a) The Board may only issue a license after the background investigation is complete, the Board determines the applicant is suitable for licensure and the applicant has paid the required initial license fee, if any.
- b) Initial license fees:

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- 1) For a master sports wagering license issued to an organization licensee licensed under the Illinois Horseracing Act of 1975 prior to June 28, 2019, the initial license fee shall be equal to 5% of its handle from the 2018 calendar year, or \$2,341,976.20, whichever is greater, but not to exceed \$10,000,000.
 - 2) For a master sports wagering license issued to an organization licensee licensed under the Illinois Horseracing Act of 1975 after June 28, 2019, the initial license fee due at licensure shall be \$5,000,000 or 5% of its handle from its first 12 months of racing operations, whichever is greater, but not to exceed \$10,000,000.
 - 3) For a master sports wagering license issued to an owners licensee licensed under the Illinois Gambling Act prior to June 28, 2019, the initial license fee shall be equal to 5% of its adjusted gross receipts from the 2018 calendar year. No initial license fee shall exceed \$10,000,000.
 - 4) For a master sports wagering license issued to an owners licensee licensed under the Illinois Gambling Act after to June 28, 2019, the initial license fee shall be equal to \$5,000,000 or 5% of its adjusted gross receipts from its first 12 months of gambling operations, whichever is greater, but not to exceed \$10,000,000.
 - 5) The initial license fee for a tier 2 official league data provider license is payable to the Board 13 months after the date of initial licensure.
- c) If an applicant is denied a license, the applicant may not reapply for a license within one year from the date on which the final order of denial was voted upon by the Board, unless granted leave of the Board.
- d) Initial Term of Licenses.
- 1) Master sports wagering, supplier, and management services provider licenses issued by the Board shall be for an initial term of four years. Prior to the expiration of the four year initial license, the licensee may apply for a license renewal in accordance with the provisions of the Act and this Part.

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- 2) Tier 2 Official League Data Provider licenses issued by the Board shall be for an initial term of three years. Prior to the expiration of the three year initial license, the licensee may apply for a license renewal in accordance with the provisions of the Act and this Part.
- 3) Occupational licenses issued by the Board shall be for a term of one year. Prior to the expiration of the license, the licensee may apply for a license renewal in accordance with the provisions of the Act and this Part.
- e) Any master sports wagering license issued pursuant to Section 25-40 of the Act shall be issued in the name of the owner of the sports facility.

**Section 1900.740 Renewal of Licenses
EMERGENCY**

- a) The Board may only renew a license upon receipt of any completed renewal forms required by the Board and the applicable renewal fee, except in the case of tier 2 official league data provider licenses. The renewal fee for a tier 2 league data provider license shall be due 30 days after the date of renewal.
- b) A license other than a tier 2 official league data provider license shall expire if the renewal fee is not received by the Board prior to the first regular Board meeting held in or after the month in which the license was issued. A tier 2 league data provider license shall expire if the renewal fee is not received by the Board within 30 days after the first day of the month in which the license was issued, regardless of any Board action decision to otherwise renew the license.
- c) The Board shall only renew a license if the licensee continues to meet all qualifications for licensure set forth in the Act and this Part.
- d) Upon the expiration of an initial license a license may be renewed for the following terms:
 - 1) A master sports wagering or management services provider license may be renewed for a term of four years.
 - 2) A Tier 2 Official League Data Provider license may be renewed for a term of three years.

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- 3) A supplier or occupational license may be renewed for a term of one year.
- e) Applications for renewal.
- 1) Applicants for renewal of master sports wagering, management services provider, supplier, and tier 2 official league data provider licenses shall submit a renewal application on forms promulgated by the Board.
 - 2) Applications for renewal shall include Business Entity or Personal Disclosure forms from each key person or level 1 occupational licensee
 - 3) Applications for renewal shall be electronically submitted, in a manner designated by the Administrator, no less than 90 days prior to the first day of the month in which the license was issued unless a later date is authorized in writing by the Administrator.
 - 4) Applications for renewal of a license, except a tier 2 official league data provider license, must be accompanied by any renewal fee required by the Act.
- f) Exceptions
- 1) A master sports wagering licensee that holds an owners license or organization gaming license pursuant to the Illinois Gambling Act is not required to submit an application for renewal, but must submit the required renewal fee no less than 90 days prior to the first day of the month in which the license was issued unless a later date is authorized in writing by the Administrator.
 - 2) Occupational licensees are not required to submit an application for renewal, but must submit the required annual license fee no less than 90 days prior to the first day of the month in which the license was issued unless a later date is authorized in writing by the Administrator.
- g) Applicants for renewal shall include at minimum, the following information:
- 1) An updated organizational chart of the licensee showing parent and subsidiary entities in relation to the licensee, including a separate listing of all Key Persons of the licensee;

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- 2) Key person and level 1 occupational licensee disclosure updates;
 - 3) The most recent year-end financial statements, including the most recent Form 10K and 10Q filings with the Securities and Exchange Commission by the licensee and its parent company if they are publicly held corporations;
 - 4) A list of revenues derived from Illinois sports wagering operations during the previous licensing period, categorized according to date and licensee;
 - 5) Any and all fees received from management agreements or consulting services with holder of a master sports wagering license, and the basis for the calculation of fees received;
 - 6) Any specific plans for changes in the financing, ownership or organization of the licensed entity;
 - 7) Disclosure of any past or pending disciplinary taken against the licensee or its affiliated entities in any other jurisdictions;
 - 8) Disclosure of any past or pending material litigation involving the licensee, its parent corporation and subsidiaries, and any Key Person;
 - 9) If applicable, any and all equipment, devices and supplies offered for sale or lease in connection with sports wagering authorized under the Act and this Part; and
 - 10) An affidavit certifying the licensee is in compliance with required payment of all applicable federal and State taxes.
- h) The Board shall base its decision on an application for renewal upon the same qualifications for initial licensure under Subpart E. The Board may consider any additional relevant information, including but not limited to:
- 1) The timeliness and responsiveness of the information submitted by the licensee pursuant to this Section;

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- 2) The Board's analysis of the licensee's operations, including the nature, frequency, extent and any pattern of past violations of the Act and this Part;
 - 3) The financial status and the current and projected financial viability of the entity;
 - 4) The owner licensee's pattern of compliance exhibited through quarterly, special and annual compliance reviews or audits performed by the Board staff or contract audit firms;
 - 5) The overall adherence of the licensee to all requirements of the Act and this Part; and
 - 6) Any other information the Board deems appropriate.
- i) Action of the Board
- 1) The Board shall act at a public meeting on the renewal of a license.
 - 2) If the Board decides to deny license renewal, it shall issue the applicant a Notice of Denial. The Notice of Denial shall be served upon the applicant in accordance with Section 1900.160.
- j) Request for Hearing.
- 1) An applicant who is served with a Notice of Denial may request a hearing in accordance with Subpart H.
 - 2) If a hearing is not requested, the Notice of Denial becomes the final order of the Board denying the applicant's license application.

**Section 1900.750 Withdrawal of Applications and Surrender of Licenses
EMERGENCY**

- a) Withdrawal of Applications.
- 1) An applicant does not have a right to withdraw a submitted application.

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- 2) An applicant may submit a request to withdraw an application to the Administrator.
 - 3) A request to withdraw an application shall not be considered unless received by the Administrator prior to Board action on the application.
 - 4) The Administrator shall deny a request to withdraw an application if he or she finds that doing so is in the best interests of the State of Illinois or the Illinois sports wagering industry.
 - 5) If the Administrator denies a request to withdraw an application, the applicant shall be notified in writing.
 - 6) If the Administrator denies a request to withdraw and application, the Board shall not deny the pending application until at least 14 days after the request is denied.
 - 7) An applicant whose request to withdraw has been denied by the Administrator may request leave of the Board to withdraw the application.
- b) Surrender of License.
- 1) A licensee does not have a right to surrender a license,
 - 2) A licensee may submit a request to surrender its license at any point after licensure.
 - 3) A request to surrender a license shall not be considered if a disciplinary action seeking suspension or revocation of the license is pending.
 - 4) The Administrator shall deny a request to surrender a license if he or she finds that doing so is in the best interests of the State of Illinois or the Illinois sports wagering industry.
 - 5) If the Administrator denies a request to surrender a licensee, the licensee shall be notified in writing.
 - 6) A licensee whose request to surrender has been denied by the Administrator may request leave of the Board to surrender the license.

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**Section 1900.760 Transferability of Ownership Interest
EMERGENCY**

- a) An ownership interest in an entity holding a master sports wagering license or a management services provider license may only be transferred with leave of the Board. An ownership interest in a business entity, other than a publicly traded corporation, which has an interest in an entity holding a master sports wagering license or a management services provider license, may only be transferred with leave of the Board.
 - 1) Any individual or entity filing an application for transfer of any ownership interest under this section must submit a Business Entity Form or Personal Disclosure Form as appropriate, and any other information specifically requested by the Board. All costs associated with Board investigation of the applicant for transfer will be borne by the licensee in which the transfer of ownership interest is being sought.
 - 2) The Board shall determine suitability for transfer based on the same criteria as for a finding of suitability for licensure under Section 1900.510.
 - 3) If the Board denies the application for transfer, it shall issue the applicant a Notice of Denial. An applicant served with a Notice of Denial may request a hearing in accord with Subpart H. If a hearing is not requested, the Notice of Denial becomes the final order of the Board denying the application for transfer.
- b) An ownership interest in an entity holding a master sports wagering license or a management services provider license may only be pledged as collateral with leave of the Board.
- c) Transferability of ownership in publicly traded parent corporation. The Board shall investigate the suitability for transfer of any person who, individually or in association with others, acquires directly, indirectly or beneficially, ownership of more than 5% of any class of voting or non-voting with conversion rights securities of a publicly traded corporation which holds an ownership interest in an entity holding a master sports wagering license or a management services provider license.

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- 1) Any such person must submit a Business Entity Form or Personal Disclosure Form as appropriate, and any other information specifically requested by the Board. All costs associated with Board investigation of the applicant for transfer will be borne by the licensee in which the publicly traded corporation holds an interest.
- 2) Board decision as to suitability for transfer will be based on the criteria for a finding of preliminary suitability for licensure under Section 1900.510.
- 3) If the Board denies the application for transfer, it shall issue the applicant a Notice of Denial. An applicant served with a Notice of Denial may request a hearing in accord with Subpart H. If a hearing is not requested, the Notice of Denial becomes the final order of the Board denying the application for transfer.
- 4) Commencing as of the date the Board issues a Notice of Denial, it shall be unlawful for the applicant served with the Notice of Denial:
 - A) to receive any dividends or interest upon any such securities;
 - B) to exercise, directly or indirectly, any right conferred by such securities; or
 - C) to receive any remuneration in any form from any person or entity holding any license pursuant to the Act for services rendered or otherwise.
- 5) Within 30 calendar days after the earlier of either the failure of an applicant served with a Notice of Denial to request a hearing or the issuance of a final order pursuant to Subpart H, the holder of the affected license shall purchase all of the interests in the holder of the Owner's license from such disqualified person or entity, and the disqualified person or entity shall sell all of the subject interest in the holder of the license to the licensee at the lesser of the market price or purchase price of such interests in the holder of the license.

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- a) A holder of a master sports wagering, management services provider, supplier, or tier 2 official league data provider license shall be required to submit an annual update to the Board during any year in which the license is not due to expire or be renewed.
- b) Annual updates shall be electronically submitted on forms and in a manner designated by the Administrator, no less than 90 days prior to the first day of the month in which the license was issued.
- c) Annual updates shall include at minimum, the following information:
 - 1) An updated organizational chart of the licensee showing parent and subsidiary entities in relation to the licensee, including a separate listing of all Key Persons of the licensee;
 - 2) Key person and level 1 occupational licensee disclosure updates;
 - 3) The most recent year-end financial statements, including the most recent Form 10K and 10Q filings with the Securities and Exchange Commission by the licensee and its parent company if they are publicly held corporations;
 - 4) A list of revenues derived from Illinois sports wagering operations during the previous licensing period, categorized according to date and licensee;
 - 5) Any and all fees received from management agreements or consulting services with holder of a master sports wagering license, and the basis for the calculation of fees received;
 - 6) Any specific plans for changes in the financing, ownership or organization of the licensed entity;
 - 7) Disclosure of any past or pending disciplinary taken against the licensee or its affiliated entities in any other jurisdictions;
 - 8) Disclosure of any past or pending material litigation involving the licensee, its parent corporation and subsidiaries, and any Key Person;

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- 9) If applicable, any and all equipment, devices and supplies offered for sale or lease in connection with sports wagering authorized under the Act and this Part; and
- 10) An affidavit certifying the licensee is in compliance with required payment of all applicable federal and State taxes.

**Section 1900.780 Recognition of Existing Board Licenses
EMERGENCY**

- a) An applicant for a supplier license pursuant to the Sports Wagering Act which holds a valid supplier license under the Illinois Gambling Act shall be granted a supplier license by the Board providing the following requirements have been met:
 - 1) The Administrator has deemed the application to be complete;
 - 2) The applicant has updated its description of products or services provided; and
 - 3) The applicant has paid its nonrefundable application fee.
- b) An applicant for an occupational license pursuant to the Sports Wagering Act who holds a valid occupational license of the same or higher level under the Illinois Gambling Act shall be granted an occupational license by the Board providing the following requirements have been met:
 - 1) The Administrator has deemed the application to be complete; and
 - 2) The applicant has paid his or her initial annual license fee.

**Section 1900.790 Temporary Operating Permits
EMERGENCY**

The Administrator may issue a temporary operating permit to an applicant for a supplier, tier 2 official league data supplier, management service provider, or master sports wagering license issued pursuant to Sections 25-30 or 25-35 of the Act.

- a) To qualify for any temporary operating permit, an applicant must have:

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- 1) already submitted an application that has been deemed complete by the Administrator; and
 - 2) already paid any required application fee.
- b) Any applicant requesting a master sports wagering temporary operating permit must:
- 1) possess a valid organization gaming license or owners license; or
 - 2) be an affiliated entity of the holder of a valid organization gaming license, owners license, master sports wagering license, or management service provider license.
- c) Any applicant requesting a supplier or tier 2 official league data supplier temporary operating permit must possess a valid license in another jurisdiction with respect to the same goods or services the applicant will supply in Illinois.
- d) Any applicant requesting a management service provider temporary operating permit must be an affiliated entity of an owners licensee or organization gaming licensee under the Illinois Gambling Act, or a master sports wagering licensee.
- e) In determining whether to grant a temporary operating permit, the Administrator shall consider any relevant factor, including but not limited to:
- 1) facts that suggest an applicant may not be suitable for licensure under the Act and this Part;
 - 2) any past or pending disciplinary action against the applicant in any jurisdiction;
 - 3) the best interests and needs of the Illinois sports wagering industry; and
 - 4) whether issuing a temporary operating permit would pose a threat to public confidence and trust in the Illinois sports wagering industry, or to the integrity and security of the Illinois sports wagering industry.

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- f) The Administrator may rescind a temporary operating permit at any time for any just cause, including but not limited to the factors identified in Sections 1900.310, 1900.510(a), and 1900(e).
- g) Rescission of a temporary operating permit by the Administrator is not a final ruling on the merits of an application.
- h) A temporary operating permit shall be rescinded upon issuance of a notice of denial of application.

**Section 1900.795 Temporary Identification Badge
EMERGENCY**

The Administrator may issue a temporary identification badge to an applicant for an occupational license. The holder of a temporary identification badge may be employed in a designated gaming area or perform duties that would otherwise require an occupational license.

- a) To qualify for a temporary identification badge, an applicant must have already submitted an application that has been deemed complete by the Administrator, including fingerprinting and photograph.
- b) In determining whether to grant a temporary identification badge, the Administrator shall consider any relevant factor, including but not limited to:
 - 1) facts that suggest an applicant may not be suitable for licensure under the Act and this Part; and
 - 2) any past or pending disciplinary action against the applicant in any jurisdiction.
- c) Temporary identification badges are valid for up to one year from the date of the application unless extended by the Administrator.
- d) A temporary identification badge is not transferable and upon resignation or termination of employment, must be returned by the applicant to the master sports wagering licensee or to the Board. A master sports wagering licensee shall return any such badge to the Board.

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- e) The Administrator may rescind a temporary identification badge at any time for any just cause, including but not limited to the factors identified in Sections 1900.310, 1900.510 (a), and 1900.795 (b).
- f) Rescission of a temporary identification badge by the Administrator is not a final ruling on the merits of an application.
- g) A temporary identification badge shall be rescinded upon issuance of a notice of denial of application.

SUBPART H: DENIALS OF APPLICATIONS

**Section 1900.810 Coverage of Subpart
EMERGENCY**

- a) The rules contained in this Subpart shall govern all hearings requested upon issuance of a notice of denial of an application for licensure. Hearings under this Subpart are de novo proceedings for the creation of a record regarding an applicant's suitability for licensure. A hearing under this Subpart is not an appeal of Board action.
- b) Section 1900.110(b) is not applicable to any requests under this Subpart.

**Section 1900.815 Requests for Hearing
EMERGENCY**

- a) If the Board finds that an applicant is not suitable for licensure, it shall issue the applicant a notice of denial.
- b) The Board shall serve notice on the applicant by e-mail pursuant to Section 1900.160, personal service, or U.S. certified mail to the last known address of the applicant. Service is complete upon transmission of the e-mail, date of personal service, or four days after mailing.
- c) Should an applicant wish to contest the action the Board has taken regarding his application, the applicant must submit a request for hearing to the Board.
- d) All requests for hearing shall be in writing. If a request for hearing is mailed, it shall include an original and one copy. The request shall contain the following:

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- 1) The name, current address and current telephone number of the petitioner (the applicant);
 - 2) Detailed reasons why and the facts upon which the petitioner will rely to show that the petitioner is suitable for licensure, including specific responses to any facts enumerated in the Board's notice of denial;
 - 3) A signature of the petitioner;
 - 4) A verification of the petition in the following form:
"The undersigned certifies that the statements set forth in this request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true."
 - 5) The request must be notarized.
- e) A request for hearing must be made within 10 days after service of notice of denial from the Board. A request shall be deemed filed on the date the e-mail was transmitted or on which it is postmarked.
 - f) If a request for hearing is not filed within 10 days of the date of service, then the notice of denial becomes the final order of the Board denying the applicant's license application.
 - g) A request for hearing shall be deemed granted unless denied. The Board may deny a request for hearing if the statement of the reasons and facts that it contains does not establish a prima facie case or fails to comply with any of the other requirements of this Section. The Board's denial of a request for hearing is a final decision and the denial of licensure becomes a final order on the date the Board denies the request for hearing.
 - h) A request for hearing may be withdrawn or voluntarily dismissed through written notification to the Board, unless objected to by the Administrator. If the Administrator objects, the request for hearing may not be withdrawn or voluntarily dismissed without leave of the Board.
 - i) The petitioner may submit a request for hearing by:

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- 1) personal delivery;
 - 2) certified mail, postage prepaid;
 - 3) overnight express mail, postage prepaid; or
 - 4) e-mail.
- j) All personally delivered or mailed requests must be submitted to the Administrator at the address provided in the notice of denial. All requests sent by email must be submitted to the email address provided in the notice of denial.
- k) If a request is granted, an Administrative Law Judge will be appointed to conduct a hearing.

**Section 1900.820 Appearances
EMERGENCY**

- a) All petitioners may be represented by an attorney who is licensed to practice in Illinois. All attorneys who appear in a representative capacity on behalf of a petitioner must file a written appearance setting forth:
- 1) The name, address, telephone number, and e-mail address of the attorney;
 - 2) The name and address of the petitioner the attorney represents; and
 - 3) An affirmative statement that the attorney is licensed to practice in Illinois.
- b) Only individual attorneys may file appearances. Any petitioner's attorney who has not filed an appearance may not address the Administrative Law Judge or sign pleadings.
- c) An attorney may only withdraw his appearance upon written notice to the Administrative Law Judge, the petitioner, and the Board.
- d) An individual or sole proprietorship may appear on his or her own behalf.
- e) A partner may appear on behalf of a partnership.

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- f) Any other business entity must be represented by an attorney.

**Section 1900.825 Appointment of Administrative Law Judge
EMERGENCY**

- a) The Chairman of the Board may provide for or appoint an attorney admitted to the practice of law by, and in good standing with, the Illinois Supreme Court as an Administrative Law Judge to conduct a hearing in accordance with this Subpart. If designated, the Administrator may provide for the appointment of an Administrative Law Judge to conduct a hearing in accordance with this Subpart. The petitioner will be copied on the letter of appointment and the letter will serve as notice of the pendency of the hearing. The Administrative Law Judge shall establish a status date and notify the parties of that date.
- b) If the petitioner believes the Administrative Law Judge is biased or has a conflict of interest, the petitioner may file with the Board a motion to disqualify the Administrative Law Judge from conducting the hearing. The motion must be in writing, accompanied by an affidavit signed and dated by the petitioner setting forth the specific grounds for disqualification. The petitioner shall serve a copy of the motion on the Administrative Law Judge. Prior adverse rulings against the petitioner or its attorney in other matters shall not, in and of themselves, constitute grounds for disqualification. On satisfactory evidence submitted by the petitioner in support of the motion to disqualify, the Board shall remove the Administrative Law Judge and provide for the reassignment of the case to another Administrative Law Judge to continue the hearing. Any Administrative Law Judge may voluntarily disqualify himself upon determining that bias or conflict of interest exists. Grounds for disqualification of Administrative Law Judge shall include but not be limited to:
- 1) Financial interest or pecuniary benefit derived from the gaming industry;
 - 2) Personal friendship with any of the parties, witnesses or attorneys involved;
 - 3) Past representation of any of the parties or witnesses involved; or
 - 4) Demonstrable pre-disposition on the issues.

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- c) If the motion to disqualify an Administrative Law Judge is denied, the Board shall set forth in writing the reasons for the denial and the Administrative Law Judge will proceed with the hearing. The motion to disqualify the Administrative Law Judge and the reasons for the denial of the motion will be part of the administrative record.

**Section 1900.830 Discovery
EMERGENCY**

- a) Upon written request served on the opposing party, a party shall be entitled to:
- 1) The name and address of any witness who may be reasonably expected to testify on behalf of the opposing party;
 - 2) All documents or other materials in the possession or control of the opposing party that the opposing party reasonably expects will be necessary to introduce into evidence. Each party's burden of production includes those documents the party reasonably expects to introduce into evidence either in its case-in-chief or in rebuttal. To the extent that they are not immediately identifiable, rebuttal documents shall be tendered to the opposing party within 14 days after receipt of documents tendered to party unless additional time is granted by the Administrative Law Judge.
- b) Discovery may be obtained only through written requests to produce witness lists, documents or other materials, as specified in subsection (a). Witnesses and documents responsive to a proper request for production that were not produced shall be excluded from the hearing and additional sanctions or penalties may be imposed.

**Section 1900.835 Subpoenas
EMERGENCY**

- a) Subpoenas for the attendance of witnesses at hearing may be served by the petitioner only upon application to the Administrative Law Judge.
- 1) The petitioner must show good cause, state the testimony to be elicited from a witness, state why the evidence to which the testimony relates cannot otherwise be obtained, and state the reasons why the testimony is necessary and relevant.

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- 2) An agent or employee of the Board may not be required by the petitioner to appear except under the procedures provided in this Section.
- b) The General Counsel of the Board or the Administrator may issue subpoenas for the attendance of witnesses or subpoenas duces tecum for the production of relevant documents, records or other material at a proceeding conducted under this Subpart.

**Section 1900.840 Motions for Summary Judgment
EMERGENCY**

The Administrative Law Judge may recommend the granting or denying summary judgment upon the filing of an appropriate motion by any party. A recommendation to deny summary judgment shall not be considered by the Board until the completion of the proceedings pursuant to Section 1900.850.

**Section 1900.850 Proceedings
EMERGENCY**

- a) All testimony shall be given under oath or affirmation.
- b) Both parties may present opening statements. Petitioner shall proceed first.
- c) Petitioner shall then present petitioner's case-in-chief.
- d) The burden of proof is at all times on petitioner. Petitioner shall have the affirmative responsibility of establishing by clear and convincing evidence that Petitioner is suitable for licensure.
- e) Upon the conclusion of petitioner's case-in chief, the Board may move for a directed finding. The Administrative Law Judge may hear arguments on the motion or may grant, deny or reserve decision, without argument.
- f) If no motion for directed finding is made, or if the motion is denied or decision reserved, the Board may present its case.
- g) Each party may conduct cross-examination of adverse witnesses.

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- h) Upon the conclusion of the Board's case, petitioner may present evidence in rebuttal.
- i) If petitioner presents rebuttal evidence, the Board may present additional, non-cumulative, evidence in surrebuttal.
- j) Both parties may present closing arguments. Petitioner proceeds first, then the Board, and thereafter Petitioner may present rebuttal argument.

**Section 1900.860 Evidence
EMERGENCY**

- a) The hearing need not be conducted according to the technical rules of evidence. Any relevant evidence may be admitted and shall be sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statute that might make improper the admission of evidence over objection in a civil action. Hearsay may support a finding of the Administrative Law Judge if it has sufficient indicia of trustworthiness and reliability and is of the type reasonably and customarily relied on in the regular course of business.
 - 1) Official Illinois Gaming Board records or certified copies of the records shall be admissible into evidence if the records tend to prove or disprove an allegation contained in the complaint;
 - 2) Official Illinois Gaming Board records are documents either prepared by or provided to the Board for the purpose of conducting its regular business;
 - 3) The Board shall have an opportunity to investigate and verify information Petitioner intends to offer in support of his case. Petitioner shall fully cooperate with any such investigation or verification of Petitioner's information by the Board. Petitioner shall not introduce into evidence any information that the Board has not been afforded the opportunity to investigate and verify.
- b) To the fullest extent possible, the parties should stipulate to all matters that are not or fairly should not be in dispute.

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- c) The parties may make objections to evidentiary offers. When an objection is made, the Administrative Law Judge may receive the disputed evidence subject to a ruling at a later time.
- d) The Administrative Law Judge may take official notice of any generally accepted information or technical or scientific matter within the field of sports wagering, and any other fact that may be judicially noticed by courts of this State. The parties shall be informed of any information, matter or facts so noticed, including any staff memoranda or data, and shall be given reasonable opportunity to refute that information.

**Section 1900.870 Prohibition on Ex Parte Communication
EMERGENCY**

A party or its representative shall not communicate directly or indirectly with the Administrative Law Judge or a member of the Illinois Gaming Board regarding any pending matter under this Subpart, except upon notice to and opportunity for all parties to participate. This prohibition does not include communication by the Illinois Gaming Board with its staff in the ordinary course of business.

**Section 1900.880 Sanctions and Penalties
EMERGENCY**

- a) The Administrative Law Judge may impose sanctions and penalties if the Administrative Law Judge finds that a party has acted in bad faith, for the purpose of delay, or has otherwise abused the hearing process. Sanctions and penalties include but are not limited to default judgment or directed finding on one or more issues.
- b) If Petitioner, or an owner or key person of Petitioner, fails to testify on his or her own behalf with respect to any question propounded, the Administrative Law Judge may infer that such testimony or answer would have been adverse to Petitioner's case.
- c) Failure of Petitioner to appear at a hearing or scheduled proceeding shall constitute an admission of all matters and facts contained in the notice of denial. In such cases the Administrative Law Judge may take action based upon that admission or upon any other evidence, including affidavits, without any further notice to the petitioner.

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**Section 1900.890 Transmittal of Record and Recommendation to the Board
EMERGENCY**

- a) The record shall consist of the following:
 - 1) The Notice of Denial, the Request for Hearing and all motions and rulings thereon;
 - 2) All evidence received;
 - 3) A statement of matters officially noticed;
 - 4) Offers of proof, objections and rulings; and
 - 5) The recommendation, any findings of fact, and any conclusions of law made by the Administrative Law Judge.
- b) Oral proceedings or any part thereof involving contested facts shall be recorded by stenographic or other such means as to adequately ensure the preservation of such testimony or oral proceedings and shall be transcribed on request of any party. The transcript shall be paid for by the requesting party.
- c) Upon conclusion of the hearing, the Administrative Law Judge shall issue to the Board written findings of fact and conclusions of law and his or her recommendations. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
- d) Any party to the hearing may file exceptions to the recommendations of the Administrative Law Judge with the Board no later than 14 days after receipt of the recommended decision. Exceptions shall specify each finding of fact and conclusion of law to which exception is taken. There shall be no oral argument on exceptions.
- e) Final Board Order
 - 1) The Board shall review the entire record, including any exceptions filed, and shall render a written order including the bases for its decision.

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- 2) Copies of the final Board order shall be served on Petitioner by e-mail pursuant to Section 1900.160 of this Part, personal delivery, certified mail, or overnight express mail to Petitioner's last known address.
- 3) A final Board order shall become effective upon transmission of the e-mail, personal delivery to a party, or upon posting by certified mail or overnight express mail to Petitioner's last known address.

**Section 1900.895 Status of Applicant for Licensure Upon Filing Request for Hearing
EMERGENCY**

An applicant who has been denied a license and who has requested a hearing under this Subpart shall be considered an applicant for purposes of compliance with applicable statutory provisions and this Part until a final Board order is issued.

SUBPART I: DISCIPLINARY PROCEEDINGS

**Section 1900.910 Coverage of Subpart
EMERGENCY**

The rules contained in this Subpart shall govern all disciplinary actions against licensees or key persons including, but not limited to, fines or suspension and revocation of a license. For purposes of this Subpart, "disciplinary actions" shall include orders of economic disassociation under Section 1900.320.

**Section 1900.915 Notice of Proposed Disciplinary Action
EMERGENCY**

- a) When notified of facts sufficient to support disciplinary action against a licensee or key person, the Administrator shall notify the Board and the respondent licensee or key person of the proposed disciplinary action. The notice shall advise the respondent of the following:
 - 1) a statement of the facts supporting the proposed disciplinary action;
 - 2) a description of the rule or statutory section the respondent has violated;
 - 3) a statement or description of the matters asserted and the consequences of the failure to respond;

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- 4) the mailing address and e-mail address of the Illinois Gaming Board.
- b) If the Administrator finds that the public interest, safety, or welfare imperatively requires emergency action, the Administrator may order the summary suspension of a license during the pendency of disciplinary proceedings.
- 1) If the Administrator makes such a finding, it shall be incorporated into the notice of proposed disciplinary action.
 - 2) Summary suspension shall be effective immediately upon service of the notice of disciplinary action.
 - 3) A licensee may submit a written request to the Board to modify or rescind the summary suspension. The request must be submitted no later than 14 days prior to a regularly scheduled Board meeting. The request is not subject to Section 1900.110(b).
 - 4) A master sports wagering licensee subject to summary suspension shall still be obligated to redeem wagers placed prior to the summary suspension.
- c) The Administrator shall serve the notice of proposed disciplinary action on the licensee by e-mail pursuant to Section 1900.160, personal service, or U.S. certified mail or regular mail to the last known address of the licensee. Service is complete upon transmission of the e-mail, date of personal service, or four days after mailing.

**Section 1900.920 Hearings in Disciplinary Actions
EMERGENCY**

- a) Should a respondent wish to contest the proposed disciplinary action, the licensee must submit a response to the notice of proposed disciplinary action described in Section 1900.915 to the Administrator.
- b) All responses shall be in writing. The response shall contain the following:
 - 1) the name, current address and current telephone number of the licensee;

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- 2) a clear and concise statement admitting or denying each of the factual allegations set forth in the notice of proposed disciplinary action, with each admission or denial being shown in separately numbered paragraphs corresponding to the separately numbered paragraphs in the notice of proposed disciplinary action;
 - 3) for all factual allegations that the licensee denies, a clear and concise statement of facts upon which the licensee relies or will rely on at a hearing;
 - 4) a signature of the licensee;
 - 5) a verification of the licensee in the following form:
"The undersigned certifies that the statements set forth in this request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he or she verily believes the same to be true.";
 - 6) the response must be notarized.
- c) The response must be filed within 21 days after the date of service of the notice of proposed disciplinary action. A response shall be deemed filed on the date the e-mail is transmitted or on which it is postmarked.
 - d) If a response is not filed within 21 days after service of the notice of proposed disciplinary action then the proposed disciplinary action becomes effective and final immediately.
 - e) No response shall be deemed filed if it fails to comply with any of the requirements of this Section.
 - f) The licensee may submit a response by:
 - 1) personal delivery;
 - 2) certified mail, postage prepaid;
 - 3) overnight express mail, postage prepaid; or

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- 4) e-mail.
- g) All personally delivered or mailed responses must be submitted to the Administrator at the address provided in the notice of proposed discipline. All responses sent by email must be submitted to the email address provided in the notice of proposed discipline.
- h) If a response is properly filed, an Administrative Law Judge will be appointed to conduct a hearing.

**Section 1900.925 Appearances
EMERGENCY**

- a) All respondents may be represented by an attorney who is licensed to practice in Illinois. All attorneys who appear in a representative capacity on behalf of a respondent must file a written appearance setting forth:
 - 1) the name, address, telephone number, and e-mail address of the attorney;
 - 2) the name and address of the respondent the attorney represents; and
 - 3) an affirmative statement that the attorney is licensed to practice in Illinois.
- b) Only individual attorneys may file appearances. Any respondent's attorney who has not filed an appearance may not address the Administrative Law Judge or sign pleadings.
- c) An attorney may only withdraw his appearance upon written notice to the Administrative Law Judge, the respondent, and the Board.
- d) An individual or sole proprietorship may appear on his or her own behalf.
- e) A partner may appear on behalf of a partnership.
- f) Any other business entity must be represented by an attorney.

**Section 1900.930 Appointment of Administrative Law Judge
EMERGENCY**

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- a) The Chairman of the Board may provide for or appoint an attorney admitted to the practice of law by, and in good standing with, the Illinois Supreme Court as an Administrative Law Judge to conduct a hearing in accordance with this Subpart. If designated, the Administrator may provide for the appointment of an Administrative Law Judge to conduct a hearing in accordance with this Subpart. The respondent will be copied on the letter of appointment and the letter will serve as notice of the pendency of the hearing. The Administrative Law Judge shall establish a status date and notify the parties of that date.
- b) If the respondent believes the Administrative Law Judge is biased or has a conflict of interest, the respondent may file with the Board a motion to disqualify the Administrative Law Judge from conducting the hearing. The motion must be in writing, accompanied by an affidavit signed and dated by the respondent setting forth the specific grounds for disqualification. The respondent shall serve a copy of the motion on the Administrative Law Judge. Prior adverse rulings against the respondent or its attorney in other matters shall not, in and of themselves, constitute grounds for disqualification. On satisfactory evidence submitted by the respondent in support of the motion to disqualify, the Board shall remove the Administrative Law Judge and provide for the reassignment of the case to another Administrative Law Judge to continue the hearing. Any Administrative Law Judge may voluntarily disqualify himself upon determining that bias or conflict of interest exists. Grounds for disqualification of Administrative Law Judge shall include but not be limited to:
- 1) Financial interest or pecuniary benefit derived from the gaming industry;
 - 2) Personal friendship with any of the parties, witnesses or attorneys involved;
 - 3) Past representation of any of the parties or witnesses involved; or
 - 4) Demonstrable pre-disposition on the issues.
- c) If the motion to disqualify an Administrative Law Judge is denied, the Board shall set forth in writing the reasons for the denial and the Administrative Law Judge will proceed with the hearing. The motion to disqualify the Administrative Law Judge and the reasons for the denial of the motion will be part of the administrative record.

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**Section 1900.935 Discovery
EMERGENCY**

- a) Upon written request served on the opposing party, a party shall be entitled to:
 - 1) the name and address of any witness who may be reasonably expected to testify on behalf of the opposing party;
 - 2) all documents or other materials in the possession or control of the opposing party that the opposing party reasonably expects will be necessary to introduce into evidence. Each party's burden of production includes those documents the party reasonably expects to introduce into evidence either in its case-in-chief or in rebuttal. To the extent that they are not immediately identifiable, rebuttal documents shall be tendered to the opposing party within 14 days after receipt of documents tendered to party unless additional time is granted by the Administrative Law Judge.
- b) Discovery may be obtained only through written requests to produce witness lists, documents or other materials, as specified in subsection (a) of this Section. Witnesses and documents responsive to a proper request for production that were not produced shall be excluded from the hearing and additional sanctions or penalties may be imposed.

**Section 1900.940 Subpoenas
EMERGENCY**

- a) Subpoenas for the attendance of witnesses at hearing may be served by the respondent only upon application to the Administrative Law Judge.
 - 1) The respondent must show good cause, state the testimony to be elicited from a witness, state why the evidence to which the testimony relates cannot otherwise be obtained, and state the reasons why the testimony is necessary and relevant.
 - 2) An agent or employee of the Board may not be required by the respondent to appear except under the procedures provided in this Section.
- b) The General Counsel of the Board or the Administrator may issue subpoenas for the attendance of witnesses or subpoenas duces tecum for the production of

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relevant documents, records or other material at a proceeding conducted under this Subpart I.

**Section 1900.945 Motions for Summary Judgment
EMERGENCY**

The Administrative Law Judge may recommend the granting or denying summary judgment upon the filing of an appropriate motion by any party. A recommendation to deny summary judgment shall not be considered by the Board until the completion of the proceedings pursuant to Section 1900.950.

**Section 1900.950 Proceedings
EMERGENCY**

- a) All testimony shall be given under oath or affirmation.
- b) Both parties may present opening statements. The Board will proceed first.
- c) The Board shall then present its case. The Board shall establish the charges contained in the notice of proposed disciplinary action by a preponderance of the evidence.
- d) Upon the conclusion of the Board's case, the respondent may move for a directed finding. The Administrative Law Judge may hear arguments on the motion or may grant, deny or reserve decision on the motion, without argument.
- e) If no motion for directed finding is made, or if such motion is denied or decision reserved, the respondent may present its case.
- f) The respondent bears the burden of rebutting the charges contained in the notice of proposed disciplinary action by clear and convincing evidence.
- g) Each party may conduct cross-examination of adverse witnesses.
- h) Upon the conclusion of the respondent's case, the Board may present evidence in rebuttal.
- i) If the Board presents rebuttal evidence, the respondent may present additional, non-cumulative, evidence in surrebuttal.

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- j) Both parties may present closing arguments. The respondent proceeds first, then the Board and thereafter the respondent may present rebuttal argument.

**Section 1900.960 Evidence
EMERGENCY**

- a) The hearing need not be conducted according to the technical rules of evidence. Any relevant evidence may be admitted and shall be sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statute that might make improper the admission of evidence over objection in a civil action. Hearsay may support a finding of the Administrative Law Judge if it is the best evidence available, has sufficient indicia of trustworthiness and reliability and is of the type reasonably and customarily relied on in the regular course of business.
 - 1) Official Illinois Gaming Board records or certified copies of the records shall be admissible into evidence if the records tend to prove or disprove an allegation contained in the complaint;
 - 2) Official Illinois Gaming Board records are documents either prepared by or provided to the Board for the purpose of conducting its regular business.
- b) To the fullest extent possible, the parties should stipulate to all matters that are not or fairly should not be in dispute.
- c) The parties may make objections to evidentiary offers. When an objection is made, the Administrative Law Judge may receive the disputed evidence subject to a ruling at a later time.
- d) The Administrative Law Judge may take official notice of any generally accepted information or technical or scientific matter within the field of sports wagering, and any other fact that may be judicially noticed by courts of this State. The parties shall be informed of any information, matter or facts so noticed, including any staff memoranda or data, and shall be given reasonable opportunity to refute that information.

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**Section 1900.970 Prohibition on Ex Parte Communication
EMERGENCY**

A party or its representative shall not communicate directly or indirectly with the Administrative Law Judge or a member of the Illinois Gaming Board regarding any pending matter under this Subpart, except upon notice to and opportunity for all parties to participate. This prohibition does not include communication by the Illinois Gaming Board with its staff in the ordinary course of business.

**Section 1900.980 Sanctions and Penalties
EMERGENCY**

- a) The Administrative Law Judge may impose sanctions and penalties if the Administrative Law Judge finds that a party has acted in bad faith, for the purpose of delay, or has otherwise abused the hearing process. Such sanctions and penalties include but are not limited to default judgment or directed finding on one or more issues.
- b) If the respondent, or an owner or key person of the respondent, fails to testify on his or her own behalf with respect to any question propounded to him, the Administrative Law Judge may infer that such testimony or answer would have been adverse to the licensee's case.
- c) Failure of the respondent to appear at a hearing or scheduled proceeding shall constitute an admission of all matters and facts contained in the complaint. In such cases the Administrative Law Judge may take action based upon that admission or upon any other evidence, including affidavits, without any further notice to the licensee.

**Section 1900.990 Transmittal of Record and Recommendation to the Board
EMERGENCY**

- a) The record shall consist of the following:
 - 1) The notice of proposed disciplinary action, the response and all motions and rulings on motions;
 - 2) All evidence received;

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- 3) A statement of matters officially noticed;
 - 4) Offers of proof, objections and rulings on those offers and objections; and
 - 5) The recommendation, any findings of fact, and any conclusions of law made by the Administrative Law Judge.
- b) Oral proceedings or any part thereof involving contested facts shall be recorded by stenographic or other such means as to adequately ensure the preservation of the testimony or oral proceedings and shall be transcribed on request of any party. The transcript shall be paid for by the requesting party.
- c) Upon conclusion of the hearing, the Administrative Law Judge shall issue to the Board written findings of fact and conclusions of law and his or her recommendations. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
- d) Any party to the hearing may file exceptions to the recommendations of the Administrative Law Judge with the Board no later than 14 days after receipt of the recommended decision. Exceptions shall specify each finding of fact and conclusion of law to which exception is taken. There shall be no oral argument on exceptions.
- e) Board Order
- 1) The Board shall review the entire record, including any exceptions filed, and shall render a written order including the bases for its decision.
 - 2) Copies of the final Board order shall be served on Respondent by e-mail pursuant to Section 1900.160 of this Part, personal delivery, certified mail, or overnight express mail to the licensee's last known address.
 - 3) A final Board order shall become effective upon transmission of the e-mail, personal delivery to a party, or upon posting by certified mail or overnight express mail to Respondent's last known address.

**Section 1900.995 Persons Subject to Proposed Orders of Economic Disassociation
EMERGENCY**

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY RULES

Persons subject to a proposed order of economic disassociation under Section 1900.320 may request a hearing on the order under this Subpart. Both the licensee and the person subject to the proposed order of economic disassociation shall be parties to the proceeding. A person requesting a hearing under this Section shall have the same procedural rights and obligations and shall be subject to the same notice requirements and deadlines as a licensee under this Subpart.

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- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Number: 150.804 Emergency Action: New Section
- 4) Statutory Authority: 35 ILCS 105/2; 35 ILCS 105/12; 20 ILCS 2505/2505-90
- 5) Effective Date of Emergency Rule: December 23, 2019
- 6) If this Emergency Amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire:
- 7) Date Filed with the Index Department: December 23, 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 new regulation implements the provisions of PA 101-9, which added provisions governing collection of the 6.25% Use Tax by a marketplace facilitator for sales made through its marketplace on behalf of marketplace sellers, beginning January 1, 2020.

This new regulation also implements provisions of PA 101-604 (SB119), that, beginning January 1, 2020, amends the definition of a marketplace facilitator and provides a definition of "unrelated third party." Use of regular rulemaking procedures would not allow for implementation by January 1, 2020. Accordingly, emergency rulemaking is necessary.
- 10) A Complete Description of the Subjects and Issues Involved: This regulation implements the provisions of PA 101-9, which added provisions governing collection of the 6.25% Use Tax by a marketplace facilitator for sales made through its marketplace on behalf of marketplace sellers. Beginning January 1, 2020, a marketplace facilitator that meets specific selling thresholds (i.e., the Wayfair thresholds of either 200 transactions or \$100,000 of gross receipts) is considered to be the retailer for all sales made through its marketplace on behalf of marketplace sellers, provided that the resulting liability for the marketplace seller would be a Use Tax collection liability. For all such sales, the marketplace facilitator must collect Use Tax and remit it to the Department. The

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regulations provide key definitions; clarify the scope and nature of the new tax remittance obligation; provide examples of the types of activities that make a person a marketplace facilitator; clarify the responsibilities of marketplace facilitators, as well as of marketplace sellers selling through a marketplace; and reference the new act's hold harmless provisions. Marketplace facilitators sometimes make sales on behalf of marketplace sellers that are subject to Retailers' Occupation Tax (ROT), rather than Use Tax (typically, when a marketplace seller fulfills an order from Illinois inventory). The new law does not consider the marketplace facilitator to be the retailer for such sales; nor does it authorize it to remit ROT for these sales. The marketplace seller is considered the retailer for these sales and must register and remit ROT to the Department. The rules detail how these transactions can be handled between a marketplace seller and marketplace facilitator.

This new regulation also implements provisions of PA 101-604 (SB119), that, beginning January 1, 2020, amends the definition of a marketplace facilitator and provides a definition of "unrelated third party." Use of regular rulemaking procedures would not allow implementation by January 1, 2020. Accordingly, emergency rulemaking is necessary.

- 11) Are there any other rulemakings to this Part pending? No
- 12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.
- 13) Information and questions regarding this Emergency Amendment shall be directed to:

Debra M. Boggess
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

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

SUBPART A: NATURE OF THE TAX

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

SUBPART B: DEFINITIONS

Section	
150.201	General Definitions

SUBPART C: KINDS OF USES AND USERS NOT TAXED

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

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

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

- Section
- 150.401 Collection of the Tax by Retailers From Users
- 150.405 Tax Collection Brackets
- 150.410 Tax Collection Brackets for a 2¼% Rate of Tax (Repealed)
- 150.415 Tax Collection Brackets for a 2½% Rate of Tax (Repealed)
- 150.420 Tax Collection Brackets for a 2¾% Rate of Tax (Repealed)
- 150.425 Tax Collection Brackets for a 3% Rate of Tax (Repealed)
- 150.430 Tax Collection Brackets for a 3¼% Rate of Tax (Repealed)
- 150.435 Tax Collection Brackets for a 3½% Rate of Tax (Repealed)
- 150.440 Tax Collection Brackets for a 3¾% Rate of Tax (Repealed)
- 150.445 Tax Collection Brackets for a 4% Rate of Tax (Repealed)
- 150.455 Tax Collection Brackets for a 4¼% Rate of Tax (Repealed)
- 150.460 Tax Collection Brackets for a 4½% Rate of Tax (Repealed)
- 150.465 Tax Collection Brackets for a 4¾% Rate of Tax (Repealed)
- 150.470 Tax Collection Brackets for a 5% Rate of Tax (Repealed)
- 150.475 Tax Collection Brackets for a 5¼% Rate of Tax (Repealed)
- 150.480 Tax Collection Brackets for a 5½% Rate of Tax (Repealed)
- 150.485 Tax Collection Brackets for a 5¾% Rate of Tax (Repealed)
- 150.490 Tax Collection Brackets for a 6% Rate of Tax (Repealed)
- 150.495 Tax Collection Brackets for a 6¼% Rate of Tax (Repealed)
- 150.500 Tax Collection Brackets for a 6½% Rate of Tax (Repealed)
- 150.505 Optional 1% Schedule (Repealed)
- 150.510 Exact Collection of Tax Required When Practicable
- 150.515 Prohibition Against Retailer's Representing That He Will Absorb The Tax
- 150.520 Display of Tax Collection Schedule (Repealed)
- 150.525 Methods for Calculating Tax on Sales of Items Subject to Differing Tax Rates

SUBPART E: RECEIPT FOR THE TAX

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Section
150.601 Requirements

SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

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

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

Section
150.801 When Out-of-State Retailers Must Register and Collect Use Tax
150.802 Trade Show Appearances
150.803 Wayfair Nexus – Nexus Without Physical Presence
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[EMERGENCY](#)
150.805 Voluntary Registration by Certain Out-of-State Retailers
150.810 Incorporation by Reference

SUBPART H: RETAILERS' RETURNS

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

SUBPART I: PENALTIES, INTEREST, STATUTE OF LIMITATIONS

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AND ADMINISTRATIVE PROCEDURES

Section
150.1001 General Information

SUBPART J: TRADED-IN PROPERTY

Section
150.1101 General Information

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

Section
150.1201 General Information

SUBPART L: BOOKS AND RECORDS

Section
150.1301 Users' Records
150.1305 Retailers' Records
150.1310 Use of Signs to Prove Collection of Tax as a Separate Item
150.1315 Consequence of Not Complying with Requirement of Collecting Use Tax
Separately From the Selling Price
150.1320 Incorporation by Reference

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
150.1401 Claims for Credit – Limitations – Procedure
150.1405 Disposition of Credit Memoranda by Holders Thereof
150.1410 Refunds
150.1415 Interest

150.TABLE A Tax Collection Brackets

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

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SOURCE: Adopted August 1, 1955; amended at 4 Ill. Reg. 24, p. 553, effective June 1, 1980; amended at 5 Ill. Reg. 5351, effective April 30, 1981; amended at 5 Ill. Reg. 11072, effective October 6, 1981; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 3704, effective March 12, 1984; amended at 8 Ill. Reg. 7278, effective May 11, 1984; amended at 8 Ill. Reg. 8623, effective June 5, 1984; amended at 11 Ill. Reg. 6275, effective March 20, 1987; amended at 14 Ill. Reg. 6835, effective April 19, 1990; amended at 15 Ill. Reg. 5861, effective April 5, 1991; emergency amendment at 16 Ill. Reg. 14889, effective September 9, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1947, effective February 2, 1993; amended at 18 Ill. Reg. 1584, effective January 13, 1994; amended at 20 Ill. Reg. 7019, effective May 7, 1996; amended at 20 Ill. Reg. 16224, effective December 16, 1996; amended at 22 Ill. Reg. 21670, effective November 25, 1998; amended at 24 Ill. Reg. 10728, effective July 7, 2000; amended at 25 Ill. Reg. 953, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1821, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 5059, effective March 23, 2001; amended at 25 Ill. Reg. 6540, effective May 3, 2001; amended at 25 Ill. Reg. 10937, effective August 13, 2001; amended at 26 Ill. Reg. 971, effective January 15, 2002; amended at 26 Ill. Reg. 9902, effective June 24, 2002; amended at 27 Ill. Reg. 1607, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 11209, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15266, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7079, effective April 26, 2005; emergency amendment at 32 Ill. Reg. 8806, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 17554, effective October 24, 2008; amended at 32 Ill. Reg. 19149, effective December 1, 2008; amended at 38 Ill. Reg. 20022, effective October 1, 2014; amended at 39 Ill. Reg. 11085, effective July 21, 2015; amended at 40 Ill. Reg. 13471, effective September 12, 2016; amended at 42 Ill. Reg. 15446, effective July 27, 2018; emergency amendment at 42 Ill. Reg. 17247, effective September 11, 2018, for a maximum of 150 days; emergency expired February 7, 2019; amended at 42 Ill. Reg. 23143, effective November 29, 2018; amended at 43 Ill. Reg. 13333, effective November 1, 2019; emergency amendment at 44 Ill. Reg. 383, effective December 23, 2019, for a maximum of 150 days.

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

Section 150.804 Marketplace Facilitators
EMERGENCY

a) Definitions

Affiliate means a person that, with respect to another person:

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has a direct or indirect ownership interest of more than 5% in the other person; or

is related to the other person because a third person, or a group of third persons who are affiliated with each other as defined herein, holds a direct or indirect ownership interest of more than 5% in the related person.

Marketplace means a physical or electronic place, forum, platform, application, or other method by which a marketplace seller sells or offers to sell tangible personal property. Examples of marketplaces include, but are not limited to, auctions, internet marketplace platforms on which tangible personal property is offered for sale; antique malls, home shopping networks selling tangible personal property over television, cable or satellite networks; or consignment shops selling tangible personal property on behalf of numerous persons.

Marketplace facilitator means a person who, pursuant to an agreement with an unrelated third-party marketplace seller, directly or indirectly through one or more affiliates facilitates a sale by an unrelated third-party marketplace seller by performing both of the activities outlined in subsection (c)(1).

Marketplace seller means a person that sells or offers to sell tangible personal property through a marketplace operated by an unrelated third-party marketplace facilitator.

Retail sales. For purposes of this Section, all sales made through a marketplace by a marketplace facilitator on behalf of unrelated third-party marketplace sellers are considered sales made at retail by a retailer.

Unrelated third party, for purposes of this Section, means a person that, with respect to another person, has a direct or indirect ownership interest of 5 percent or less in the other person. A person is also considered to be an unrelated third party when a third person, or group of third persons who are affiliated with each other as defined in this subsection, hold a direct or indirect ownership interest of 5% or less in the other person.

b) General Provisions; Tax Collection

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- 1) Scope of regulations – preliminary considerations. The provisions of this Section apply when the only tax required to be remitted to the Department by marketplace facilitators for sales made on behalf of marketplace sellers through the marketplace is Use Tax. A marketplace facilitator is considered the retailer for such sales and must register, collect Use Tax from purchasers and remit that Use Tax to the Department. Marketplace facilitators are not considered the retailer for sales made on behalf of marketplace sellers through the marketplace that are subject to Retailers' Occupation Tax. Marketplace sellers are considered the retailer for such sales. The manner in which these transactions are handled is set out in subsection (i) of this Section.

EXAMPLE 1: Ponchos for Pooches makes sales of rain gear for dogs through an internet marketplace that meets the requirements of subsection (d) of this Section. The rain gear is handmade in Portland, Oregon and then shipped directly to Illinois purchasers. Beginning on January 1, 2020, the marketplace facilitator is considered the retailer of the rain gear and must collect and remit Use Tax to the Department.

EXAMPLE 2: Sales made to Illinois purchasers by Ponchos for Pooches have skyrocketed. As a result, the company now has several employees located in Illinois, and the rain gear which the employees produce is inventoried in a warehouse located in Kankakee. Sales to Illinois purchasers are frequently shipped from the Kankakee warehouse. Any sales fulfilled from inventory in the Kankakee warehouse are subject to Retailers' Occupation Tax, including local occupation taxes, because the property sold is located in the inventory of Ponchos for Pooches in Kankakee at the time of sale. See, for example, 86 Ill. Adm. Code 270.115. The marketplace facilitator is no longer considered the retailer for these sales. Ponchos for Pooches is liable for Retailers' Occupation Tax on these sales and must register with the Department to remit Retailers' Occupation Tax on such sales. In this example, the marketplace facilitator has decided to collect all taxes due from purchasers on these sales (including any local occupation tax reimbursements) and transmits them to Ponchos for Pooches. Ponchos for Pooches then remits Retailers' Occupation Tax on these sales to the Department. In this situation, the marketplace facilitator is held harmless for tax on amounts collected and remitted to Ponchos for Pooches.

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- 2) Tax Collection: On and after January 1, 2020, except as provided in subsection (i)(4) of this Section, every marketplace facilitator that meets either of the thresholds in subsection (d) of this Section is considered the retailer for each sale of tangible personal property made on behalf of marketplace sellers through its marketplace. The marketplace facilitator must register with the Department and collect and remit any Use Tax due for marketplace sales made on behalf of marketplace sellers to Illinois purchasers. The obligations of marketplace facilitators are more fully explained in subsection (h) of this Section.
- c) Determination of Status as a Marketplace Facilitator
- 1) A person is considered a marketplace facilitator if he or she, pursuant to an agreement with an unrelated third-party marketplace seller, directly or indirectly through one or more affiliates facilitates a sale by an unrelated third party marketplace seller by doing the following:
- A) listing or advertising for sale by the marketplace seller in a marketplace, tangible personal property that is subject to tax under the Use Tax Act; and
- B) either directly or indirectly, through agreements or arrangements with third parties, collecting payment from the customer and transmitting that payment to the marketplace seller regardless of whether the marketplace facilitator receives compensation or other consideration in exchange for its services.

EXAMPLE 1: Carabibi, a social media network, provides a forum in which persons using the network can buy and sell used tangible personal property. Carabibi functions solely as an advertising platform bringing buyers and sellers together. Once the buyer and seller have contacted each other over the network, they must negotiate the sale and make payment arrangements themselves. While the forum provided by Carabibi constitutes a marketplace as defined in subsection (a), Carabibi is not considered a marketplace facilitator because it does not engage in the activities described in subsection (c)(1)(B).

EXAMPLE 2: Paymate is a payment processing business appointed by merchants to handle payment transactions from various channels, such as credit cards and debit cards. Its sole activity with respect to marketplace sales is to handle

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financial transactions between two parties on the marketplace. Paymate is not a marketplace facilitator because it does not engage in the activities described in subsection (c)(1)(A).

EXAMPLE 3: CouponCrowd operates an online platform that sells coupons that can be redeemed by purchasers at various retail stores that have contracted with CouponCrowd to promote their businesses. CouponCrowd lists the coupons for sale, sells the coupons to purchasers, and processes payment for the purchase of the coupons. CouponCrowd is not a marketplace facilitator. The sale of a coupon is the sale of an intangible, not the sale of tangible personal property. Marketplace facilitators must engage in facilitating sales of tangible personal property.

EXAMPLE 4: Mandameal is a food delivery service platform operating in Chicago. Mandameal provides an app to users that lists menus from participating restaurants, sells the meals to customers, and processes payments for the meals that are purchased. Although Mandameal is considered a marketplace facilitator because it engages in the activities in subsection (c)(1), the provisions of this Section do not apply to it because the tax liability resulting from its sales is Retailers' Occupation Tax liability, not Use Tax liability. Mandameal must register as a retailer and remit Retailers' Occupation Tax to the Department for sales it makes over its app.

d) Marketplace Facilitators – Determination of Obligation to Collect and Remit Tax

Beginning January 1, 2020, except as provided in subsection (i)(4) of this Section, a marketplace facilitator, as defined in subsection (c)(1) of this Section, is considered the retailer for each sale of tangible personal property made through its marketplace on behalf of marketplace sellers if either of the following thresholds is met:

- 1) *The cumulative gross receipts from sales of tangible personal property to purchasers in Illinois made through the marketplace by the marketplace facilitator and by marketplace sellers are \$100,000 or more; or*
- 2) *The marketplace facilitator and marketplace sellers selling through the marketplace cumulatively enter into 200 or more separate transactions through the marketplace for the sale of tangible personal property to purchasers in Illinois.*

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- e) A marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether it meets the threshold of either subsections (d)(1) or (2) for the preceding 12-month period. If the marketplace facilitator meets the threshold of either subsections (d)(1) or (2) for a 12-month period, it is considered a retailer maintaining a place of business in Illinois and is required to collect and remit the Use Tax and file returns for one year for all sales made over its marketplace.
- 1) At the end of that one-year period, the marketplace facilitator shall determine whether it met the threshold of either subsections (d)(1) or (2) during the preceding 12-month period. If the marketplace facilitator met the threshold of either subsections (d)(1) or (2) for the preceding 12-month period, it is considered a retailer maintaining a place of business in Illinois and is required to collect and remit Use Tax and file returns for the subsequent year for all sales made over its marketplace.
- 2) If at the end of a one-year period a marketplace facilitator that was required to collect and remit the Use Tax determines that it did not meet the threshold of either subsections (d)(1) or (2) during the preceding 12-month period, the marketplace facilitator shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether it meets the threshold of either subsections (d)(1) or (2) for the preceding 12-month period.
- f) "Gross receipts" and "separate transactions" defined. The following definitions must be applied by a marketplace facilitator when determining if it meets either of the thresholds in subsection (d):
- 1) "Gross receipts" means all the consideration actually received for a sale by a marketplace seller. See 86 Ill. Adm. Code 130.401 for additional information regarding gross receipts. Subsection (g) describes what kinds of transactions must be included or excluded when determining whether the threshold based on gross receipts in subsection (d)(1) is met.
- 2) "Illinois purchaser" means a person in Illinois who, through a sale at retail, acquires the ownership of tangible personal property for a valuable consideration. See 35 ILCS 105/2.

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- 3) "Entering into a sale" occurs when a marketplace seller has taken action that binds it to a sale. This may occur, even though the tangible personal property that has been sold has not yet shipped to the purchaser.

EXAMPLE: On December 15, 2019, a marketplace seller takes actions binding it to a sale that is scheduled for shipment on January 15, 2020. This sale must be included in the calculation used to determine the marketplace facilitator's sales transactions for its initial lookback period under subsection (e).

- 4) "Separate transactions" means sales transactions which are documented on separate invoices, regardless of the manner in which the tangible personal property is delivered to the purchaser.

EXAMPLE 1: A purchaser orders 12 items of clothing from a marketplace seller. He receives an invoice confirming his order of 12 items. However, due to a back order, 3 of the clothing items are shipped separately from the other 9 items. Shipment of the 3 back-ordered items, even with a separate shipping invoice, is not considered a separate transaction because the original transaction was invoiced as one sale.

EXAMPLE 2: A purchaser places an order of home repair tools at 8:00 a.m. from a marketplace seller. She receives an invoice confirming her order at 8:15 a.m. At 2:00 p.m., the purchaser realizes she needs 5 other tools to complete the job, and orders these tools from the same marketplace seller. The marketplace seller confirms this order with a separate invoice. In this example, two different transactions have occurred. This is the case, even if the marketplace seller sends all the ordered tools to the purchaser in one package.

EXAMPLE 3: A mother places an order with Marketplace Seller B for care packages to be delivered to her son's dormitory at 8 scheduled intervals during the school year. Each delivery is separately invoiced. These are counted as 8 separate transactions.

- g) Transactions That Are Included or Excluded in Determining if Either of the Thresholds in Subsection (d) Are Met

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A marketplace facilitator must apply the following provisions in determining whether a transaction should be included or excluded for purposes of determining if it meets either of the thresholds in subsection (d):

- 1) Sales for resale must be excluded. See 86 Ill. Adm. Code 130.201.

EXAMPLE: Marketplace Seller A makes a sale of seedlings to Company B over a marketplace. Company B provides a resale certificate indicating that 60% of the seedlings will be sold to customers at retail (a purchase for resale) and that it will use 40% of the seedlings in its landscaping business (a purchase for use). If the marketplace facilitator calculates its threshold using gross receipts, it should include only 40% of the gross receipts from this sale. If it calculates its threshold using transactions, however, the entire transaction with Company B must be included.

- 2) Sales of tangible personal property that is required to be registered with an agency of this State, including motor vehicles, watercraft, aircraft, and trailers, that are made from locations outside Illinois to Illinois purchasers must be excluded. Taxes on these items will continue to be paid, as required by Section 10 of the Use Tax Act [35 ILCS 105], by purchasers as a condition of titling or registering these items.

- 3) Sales made through the marketplace on behalf of a marketplace seller or by a marketplace facilitator that are subject to Retailers' Occupation Tax must be excluded. For example, sales made through a marketplace on behalf of a marketplace seller that are filled from inventory located in an Illinois warehouse are excluded for purposes of calculating the thresholds in subsection (d).

- 4) All sales of tangible personal property, other than those excluded by this subsection (g), even if they are exempt from tax, must be included for purposes of calculating the thresholds in subsection (d).

h) Obligations of marketplace facilitators

- 1) A marketplace facilitator shall enter into an agreement with each of its marketplace sellers to facilitate sales of tangible personal property by that marketplace seller. The agreement shall contain a certification by the marketplace facilitator that, except as provided in subsection (i), the

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marketplace facilitator assumes the rights and duties of a retailer under the Use Tax Act with respect to collection and remittance of Use Tax on all sales made by the marketplace seller through the marketplace. The marketplace facilitator shall maintain the agreement in its books and records for review and inspection upon demand by the Department.

- 2) A marketplace facilitator must maintain books and records containing the name, address and FEIN number of all marketplace sellers making sales through its marketplace and provide such records to the Department upon demand.
- 3) A marketplace facilitator shall collect Use Tax as required by Section 3-45 of the Use Tax Act for all sales made through its marketplace, based on information provided by marketplace sellers. However, marketplace facilitators are not required to collect tax on sales of tangible personal property that is required to be registered with an agency of this State, including motor vehicles, watercraft, aircraft and trailers, that are made from locations outside Illinois to Illinois purchasers. Taxes on these items will continue to be paid, as required by Section 10 of the Use Tax Act, by purchasers as a condition of titling or registering these items. When Retailers' Occupation Tax is incurred on a sale made through the marketplace by a marketplace seller, a marketplace facilitator may, as provided in subsection (i)(5), collect all taxes due from the purchaser on the sale, including any local tax reimbursements, and transmit them to the marketplace seller for remittance to the Department as Retailers' Occupation Tax.
- 4) A marketplace facilitator shall register with the Department and file returns in accordance with procedures required by the Use Tax Act.
- 5) A marketplace facilitator shall maintain books and records for all sales made through a marketplace on behalf of marketplace sellers consistent with the requirements in Section 11 of the Use Tax Act.
- 6) A marketplace facilitator may file a separate return for its own sales made over the marketplace, apart from the return for sales made through the marketplace on behalf of marketplace sellers.

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- 7) An affiliate of a marketplace facilitator shall file its own return for sales it makes over the marketplace provided it is a retailer maintaining a place of business in this State pursuant to Section 2 of the Use Tax Act.
- 8) If, for any reason, the Department is prohibited from enforcing the marketplace facilitator's duty under this Act to collect and remit taxes pursuant to this Section, the duty to collect and remit such taxes reverts to the marketplace seller that is a retailer maintaining a place of business in this State pursuant to Section 2 of the Use Tax Act.
- i) Obligations of marketplace sellers
- 1) A marketplace seller shall furnish to the marketplace facilitator information that is necessary for the marketplace facilitator to correctly collect and remit Use Tax on each retail sale. The information may include a certification that an item being sold is taxable, not taxable, exempt from taxation, or taxable at a specified rate.
- 2) Books and records. Each marketplace seller shall maintain books and records for all sales made through a marketplace in accordance with the requirements of the Use Tax Act. Each marketplace seller shall furnish such books and records to the marketplace facilitator upon the reasonable request of the marketplace facilitator.
- 3) A marketplace seller that makes sales to Illinois purchasers in addition to those made through a marketplace must determine if it is required to separately register and collect and remit Use Tax on those sales. If the marketplace seller is a "retailer maintaining a place of business in this State" under Section 2 of the Use Tax Act, it is required to separately register and remit Use Tax on such sales to Illinois purchasers. In determining if it has Wayfair nexus (see 86 Ill. Adm. Code 150.803), neither the gross receipts from, nor the number of, separate transactions for sales of tangible personal property to purchasers in Illinois that a marketplace seller makes through a marketplace facilitator and for which it has received a certification from the marketplace facilitator as provided in Section 2d of the Use Tax Act shall be included for purposes of determining whether it meets the Wayfair thresholds.

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

- 4) A marketplace seller must separately register and remit tax on all sales of tangible personal property, including those made over a marketplace, that result in Retailers' Occupation Tax. For sales made over the marketplace that result in Retailers' Occupation Tax, the marketplace seller is considered the retailer and must remit tax on such sales as provided in the Retailers' Occupation Tax Act, as well as applicable local occupation taxes. The marketplace facilitator is not considered the retailer with respect to such sales.
 - 5) If a marketplace seller is required to remit Retailers' Occupation Tax for sales to Illinois purchasers made through a marketplace, the marketplace facilitator is authorized to collect all taxes due from the purchaser on such sales, including local tax reimbursements, and transmit them to the marketplace seller for remittance to the Department as Retailers' Occupation Tax. If a marketplace facilitator collects and transmits tax in this manner, it is not liable for tax on amounts so collected and remitted.
- j) Hold Harmless provisions
- 1) A marketplace seller shall be held harmless for liability for the collection and remittance of Use Tax when a marketplace facilitator fails to correctly collect and remit tax after having been provided with information by a marketplace seller to correctly collect and remit tax.
 - 2) If a marketplace facilitator demonstrates to the satisfaction of the Department that its failure to correctly collect and remit Use Tax on a sale resulted from its good faith reliance on incorrect or insufficient information provided by a marketplace seller, it shall be relieved of liability for the tax on that sale. In this case, a marketplace seller is liable for any resulting Use Tax due.
- k) Nothing in this Section affects the tax liability of a purchaser. If the tax is not collected and remitted as required, the purchaser shall remit such tax to the Department.

(Source: Added by emergency rulemaking at 44 Ill. Reg. 383, effective December 23, 2019, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYNOTICE OF WITHDRAWAL OF SUSPENSION OF EMERGENCY RULE

ILLINOIS GAMING BOARD

Heading of the Part: Video Gaming (General)

Code Citation: 11 Ill. Adm. Code 1800

Section Numbers: 1800.110 1800.420 1800.580
1800.250 1800.430 1800.1810
1800.260 1800.540

Date Related Proposed Rulemaking Published in *Illinois Register*: 8/30/19
43 Ill. Reg. 9209

Date Emergency Rule Published in the *Illinois Register*: 8/30/19
43 Ill. Reg. 9261

At its meeting on December 17, 2019, the Joint Committee on Administrative Rules voted to withdraw the Suspension on portions of the above-referenced emergency rule titled Video Gaming (General) (11 Ill. Adm. Code 1800; 43 Ill. Reg. 9261), contingent upon, and effective with, the Illinois Gaming Board's adoption of the permanent rulemaking (43 Ill. Reg. 9209).

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF INSURANCE

Heading of the Part: Mistake in Benefit under Article 3 and Article 4 Pensions

Code Citation: 50 Ill. Adm. Code 4450

Section Numbers: 4450.10 4450.20 4450.30 4450.40

Date Originally Published in the *Illinois Register*: 5/31/19
43 Ill. Reg. 6242

At its meeting on December 17, 2019, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and recommended that the Department be more diligent in adhering to statutory mandates in a timely manner. PA 98-1117, effective 8/26/14, requires DOI's Public Pension Division to set the interest rate to be paid on the amount underpaid by downstate police and firefighter pension systems due to miscalculation. It has taken DOI five years to comply with statute.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SECOND NOTICES RECEIVED

The following second notices were received during the period of December 10, 2019 through December 23, 2019. The rulemakings are scheduled for the January 14, 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.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
1/23/20	<u>Agriculture</u> , Fairs Operating Under the Agriculture Fair Act (8 Ill. Adm. Code 260)	10/18/19 43 Ill. Reg. 11800	1/14/20
1/23/20	<u>Children and Family Services</u> , Licensing Standards for Foster Family Homes (89 Ill. Adm. Code 402)	7/12/19 43 Ill. Reg. 7544	1/14/20
2/2/20	<u>Human Services</u> , Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)	10/18/19 43 Ill. Reg. 11905	1/14/20
2/2/20	<u>Human Services</u> , Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)	10/11/19 43 Ill. Reg. 11063	1/14/20
2/2/20	<u>Human Services</u> , Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 112)	10/11/19 43 Ill. Reg. 11065	1/14/20
2/2/20	<u>Human Services</u> , General Grantmaking (DHS) (44 Ill. Adm. Code 7040)	10/18/19 43 Ill. Reg. 11812	1/14/20

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SECOND NOTICES RECEIVED

2/2/20	<u>Insurance, Accident and Health Reserves</u> (50 Ill. Adm. Code 2004)	10/25/19 43 Ill. Reg. 12066	1/14/20
2/2/20	<u>Aging, Community Care Program</u> (89 Ill. Adm. Code 240)	11/1/19 43 Ill. Reg. 12209	1/14/20
2/2/20	<u>Gaming Board, Riverboat Gambling</u> (86 Ill. Adm. Code 3000)	11/1/19 43 Ill. Reg. 12784	1/14/20
2/5/20	<u>Student Assistance Commission, Illinois Veteran Grant (IVG) Program</u> (23 Ill. Adm. Code 2733)	10/4/19 43 Ill. Reg. 10789	1/14/20

DEPARTMENT ON AGING

JANUARY 2020 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Americans With Disabilities Act and Civil Rights Program Grievance Procedure (4 Ill. Adm. Code 1725)
- 1) Rulemaking:
- A) Description: In Section 1725.10 and Appendix A, the Department on Aging will correct the address listings for its central office location in Springfield, Illinois. Notifications and service using electronic means, including email, and methods when the department cannot confirm delivery via electronic notification and/or service will also be addressed as set out in the Illinois Administrative Procedure Act (5 ILCS 100).
- B) Statutory Authority: 20 ILCS 105/4.01(11); 5 ILCS 100
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
- D) Date Agency anticipates First Notice: The Department on Aging anticipates filing this proposed rulemaking project during the next six months of this year.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Tracey L.F. Trigillo
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way, Suite 100
Springfield IL 62702-1271
- 217/785-3346
Tracey.Trigillo@Illinois.gov
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): General Grantmaking (AGE) (44 Ill. Adm. Code 7020)

DEPARTMENT ON AGING

JANUARY 2020 REGULATORY AGENDA

- 1) Rulemaking:
 - A) Description: The Department on Aging has reserved and will add Part 7020 to reflect Grant Accountability and Transparency Act required rulemaking unique to the Department.
 - B) Statutory Authority: 30 ILCS 708
 - C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
 - D) Date Agency anticipates First Notice: The Department on Aging anticipates filing this proposed rulemaking project during the next six months of this year.
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: The Department does not anticipate an effect upon small businesses, small municipalities, or not-for-profit corporations.
 - F) Agency contact person for information:

Tracey L.F. Trigillo
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way, Suite 100
Springfield IL 62702-1271

217/785-3346
Tracey.Trigillo@Illinois.gov
 - G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): General Programmatic Requirements (89 Ill. Adm. Code 220)
 - 1) Rulemaking:

DEPARTMENT ON AGING

JANUARY 2020 REGULATORY AGENDA

- A) Description: Part 220 will be amended or repealed as necessary to (1) update outdated language or provisions to provide consistency throughout the rulemaking; and (2) correct the address listing in Section 220.503 for the central office location of the Department in Springfield, Illinois. Notifications and service using electronic means, including email, and methods when the department cannot confirm delivery via electronic notification and/or service will also be addressed as set out in the Illinois Administrative Procedure Act (5 ILCS 100).
- B) Statutory Authority: 20 ILCS 105/4, 4.01(4), 4.01(11), and 4.02; 5 ILCS 100
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
- D) Date Agency anticipates First Notice: The Department on Aging anticipates filing this proposed rulemaking project during the next six months of this year.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The Department does not anticipate an effect upon small businesses, small municipalities, or not-for-profit corporations.
- F) Agency contact person for information:
- Tracey L.F. Trigillo
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way, Suite 100
Springfield IL 62702-1271
- 217/785-3346
Tracey.Trigillo@Illinois.gov
- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): Older Americans Act Programs (89 Ill. Adm. Code 230)

DEPARTMENT ON AGING

JANUARY 2020 REGULATORY AGENDA

- 1) Rulemaking:
 - A) Description: Part 230 will be amended as necessary to (1) update outdated language or provisions to provide consistency throughout the rulemaking; (2) update statutory citations; and (3) update provisions to reflect changes in the federal Older Americans Act. Notifications and service using electronic means, including email, and methods when the department cannot confirm delivery via electronic notification and/or service will also be addressed as set out in the Illinois Administrative Procedure Act (5 ILCS 100).
 - B) Statutory Authority: 20 ILCS 105/4.01; 5 ILCS 100
 - C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
 - D) Date Agency anticipates First Notice: The Department on Aging anticipates filing this proposed rulemaking project during the next six months of this year.
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: The Department does not anticipate an effect upon small businesses, small municipalities, or not-for-profit corporations.
 - F) Agency contact person for information:

Tracey L.F. Trigillo
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way, Suite 100
Springfield IL 62702-1271

217/785-3346
Tracey.Trigillo@Illinois.gov
 - G) Related rulemakings and other pertinent information: None
- e) Part (Heading and Code Citation): Community Care Program (89 Ill. Adm. Code 240)

DEPARTMENT ON AGING

JANUARY 2020 REGULATORY AGENDA

- 1) Rulemaking:
 - A) Description: Part 240 will be amended as necessary in order to (1) update provisions to reflect federal regulations regarding the 1915(c) Medicaid Persons who are Elderly Waiver; (2) revise provisions once the Department on Aging formally incorporates person-centered planning into the care coordination process; (3) modify certification opportunities for entities providing adult day services; (4) update provisions regarding conflicts and the appeals process to improve health, safety, and welfare of program participants; (5) add new subsections to Section 240.260 (care coordination service) that outline intensive casework and intensive monitoring to align with person-centered care coordination; (6) review and address as needed the issues raised by commenters that were outside of the scope of the person-centered planning rulemaking process; (7) propose amendments regarding automated medication dispensers (AMD); (8) propose amendments to sections related to participants' applications and requests for services; (9) propose amendments to add falls prevention options to emergency home response service (EHRS); (10) propose updates to the participant financial eligibility criteria; (11) propose amendments for rate adjustments to maximum payment levels for in-home service and adult day service CCP providers; and (12) propose amendments to clean up words/phrases for consistency throughout the rules, including outdated citations and language. Notifications and service using electronic means, including email, and methods when the department cannot confirm delivery via electronic notification and/or service will also be addressed as set out in the Illinois Administrative Procedure Act (5 ILCS 100).
 - B) Statutory Authority: 20 ILCS 105/4.01(11) and 4.02; 5 ILCS 100
 - C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
 - D) Date Agency anticipates First Notice: The Department on Aging anticipates filing this proposed rulemaking project during the next six months of this year.
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: Entities serving as In-Home Service (INH) Provider

DEPARTMENT ON AGING

JANUARY 2020 REGULATORY AGENDA

Agencies, Care Coordination Units (CCUs), Adult Day Service (ADS) Provider Agencies, Emergency Home Response Service (EHRS) Provider Agencies, Automated Medication Dispenser (AMD) Provider Agencies, and the Area Agencies on Aging (AAAs) for the Department on Aging under the Community Care Program.

F) Agency contact person for information:

Tracey L.F. Trigillo
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way, Suite 100
Springfield IL 62702-1271

217/785-3346
Tracey.Trigillo@Illinois.gov

G) Related rulemakings and other pertinent information: Nonef) Part (Heading and Code Citation): Adult Protection and Advocacy Services (89 Ill. Adm. Code 270)1) Rulemaking:

A) Description: Part 270 will be amended to update language implementing PA 101-496, which directs that an Adult Protective Service provider agency include interviews or consultations with service agencies, immediate family members, and individuals who may have knowledge about abuse allegations in conducting assessments based on the consent of an eligible adult in all instances, except where the provider agency is acting in the best interest of an alleged victim who is unable to seek assistance and where there are allegations against a caregiver who has assumed responsibilities in exchange for compensation. Notifications and service using electronic means, including email, and methods when the department cannot confirm delivery via electronic notification and/or service will also be addressed as set out in the Illinois Administrative Procedure Act (5 ILCS 100).

DEPARTMENT ON AGING

JANUARY 2020 REGULATORY AGENDA

- B) Statutory Authority: PA 101-496 and as authorized by 320 ILCS 20/3(a-1) and 10; 5 ILCS 100
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.
- D) Date Agency anticipates First Notice: The Department on Aging anticipates filing this proposed rulemaking project during the next six months of this year.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Entities serving as provider agencies for the Department on Aging under the Adult Protective Services Program will be affected.
- F) Agency contact person for information:
- Tracey L.F. Trigillo
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way, Suite 100
Springfield IL 62702-1271
- 217/785-3346
Tracey.Trigillo@Illinois.gov
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 2020 REGULATORY AGENDA

a) Part (Heading and Code Citation): Pay Plan (80 Ill. Adm. Code 310)1) Rulemaking: Proposed AmendmentsA) Description: Projected amendments to the Department of Central Management Services' Pay Plan include the following revisions to the following sections:

In Section 310.47, establishment of or changes to in-hire rates.

In Section 310.130 Effective Date, the change advances the effective date of the Pay Plan to the new fiscal year 2021.

In various sections, changes based on classifications either being established, revised or abolished with the approval of the Civil Service Commission.

In various sections, changes for positions that are represented by a bargaining unit or other changes based on a decision issued by the Illinois Labor Relations Board.

In various sections, changes based on pay policy from various internal and external studies.

In various sections, changes to the format of the Pay Plan that reduce duplicate information and provide easier access to information contained within the Pay Plan, and to remove outdated provisions or rates.

B) Statutory Authority: Authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a, 20 ILCS 415/8c, 20 ILCS 415/8e, 20 ILCS 415/9(7) and 20 ILCS 415/9(14)], subsection (d) of Section 1-5 of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)] and by Sections 4, 6, 15 and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21].C) Scheduled meeting/hearing dates: No meeting or hearing is scheduled. An interested person may send specific criticisms, suggestions, and/or comments to the Department of Central Management Services in writing during the First Notice Period of the Pay Plan amendments.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 2020 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: Proposed amendments based on new, revised, or abolished classifications not represented by the bargaining units, will be filed as the classification actions are approved by the Civil Service Commission.

Proposed amendments to remove positions, or other changes, based on decisions issued by the Illinois Labor Relations Board will be filed after the date the decisions are issued.

Amendments to sections based on studies will be filed as approved.

Amendments to sections to add clarity, to alter in-hire rates or remove outdated information will be filed as the Governor approves changes.

- E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendments to the Pay Plan pertain only to state employees subject to the Personnel Code under the Governor. They do not set out guidelines that are to be followed by local or other jurisdictional bodies within the State.

- F) Agency contact person for information:

Lisa Fendrich
Compensation Section
Division of Technical Services
Bureau of Personnel
Department of Central Management Services
503 William G. Stratton Building
Springfield IL 62706

217/782-7976
CMS.PayPlan@Illinois.gov
fax: 217/558-4497

- G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues regarding state employee salary rates and policies.

CHIEF PROCUREMENT OFFICER FOR THE CAPITAL DEVELOPMENT BOARD

JANUARY 2020 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Chief Procurement Officer for the Capital Development Board, (44 Ill. Adm. Code 8)
- 1) Rulemaking:
- A) Description: The Chief Procurement Officer for the Capital Development Board anticipates amendments to address legislative changes made by the 100th General Assembly.
- B) Statutory Authority: 30 ILCS 500
- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date Agency anticipates First Notice: March 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposals may affect small businesses that contract with the State of Illinois.
- F) Agency contact person for information:
- Arthur Moore
Chief Procurement Officer
Chief Procurement Office for Capital Development Board
401 S. Spring Street
Room 318 Stratton Office Building
Springfield IL 62706
- 217/558-2156
- G) Related rulemakings and other pertinent information: None

EXECUTIVE ETHICS COMMISSION

JANUARY 2020 REGULATORY AGENDA

a) Part (Heading and Code Citation): Organization, Information, Rulemaking and Hearings (2 Ill. Adm. Code 1620)

1) Rulemaking:

A) Description: The Commission will propose amendments designed to implement the amendments made to the State Officials and Employees Ethics Act by PA 101-221, effective August 9, 2019. In particular, the rules will address expansion of oversight of the sexual harassment training programs to include prevention of other forms of harassment and unlawful discrimination and new procedural rights of subjects of harassment and discrimination violations. Some of the provisions to be implemented were amended again by Senate Bill 730, which passed both houses during veto session sent to the Governor for signature on December 12, 2019.

B) Statutory Authority: State Officials and Employees Act [5 ILCS 430] and Section 1-13(e) of the Illinois Procurement Code [30 ILCS 500/1-13(e)]

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date Agency anticipates First Notice: The Commission anticipates filing the proposed rulemaking in the first quarter of 2020.

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Michelle Casey
Executive Director
Executive Ethics Commission
401 S. Spring St.
513 William Stratton Building
Springfield IL 62706

217/558-1393

G) Related rulemakings and other pertinent information: None

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2020 REGULATORY AGENDA

a) Part (Heading and Code Citation): Illinois National Guard (ING) Grant Program (23 Ill. Adm. Code 2730)

1) Rulemaking:

- A) Description: This Part is being revised to clarify the order in which the grant is awarded to applicants who are eligible for Post-9/11 GI Bill benefits at 100% reimbursement.
- B) Statutory Authority: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date Agency anticipates First Notice: January 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor
Springfield IL 62704
- 217/782-5161
jackie.eckley@illinois.gov
- G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Illinois Veteran Grant (IVG) Program (23 Ill. Adm. Code 2733)

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2020 REGULATORY AGENDA

- 1) Rulemaking:
 - A) Description: This Part is being revised to clarify eligibility requirements, clarify the order in which the grant is awarded to applicants who are eligible for Post-9/11 GI Bill benefits at 100% reimbursement, and to specify priority claim dates.
 - B) Statutory Authority: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)].
 - C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
 - D) Date Agency anticipates First Notice: January 2020
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: None
 - F) Agency contact person for information:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor
Springfield IL 62704

217/782-5161
jackie.eckley@illinois.gov
 - G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): Monetary Award Program (MAP) (23 Ill. Adm. Code 2735)
 - 1) Rulemaking:

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2020 REGULATORY AGENDA

- A) Description: This Part is being revised to clarify the adjustment process before/after colleges' add/drop periods, and other minor issues that have arisen during the previous year.
- B) Statutory Authority: Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/35 and 20(f)].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date Agency anticipates First Notice: January 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor
Springfield IL 62704

217/782-5161
jackie.eckley@illinois.gov

- G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Grant Program for Exonerees (23 Ill. Adm. Code 2743)

1) Rulemaking:

- A) Description: This Part is being revised to clarify minor operational issues that have arisen during the previous year.

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2020 REGULATORY AGENDA

- B) Statutory Authority: Implementing and authorized by Section 62 of the Higher Education Student Assistance Act [110 ILCS 947/62].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date Agency anticipates First Notice: January 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor
Springfield IL 62704
- 217/782-5161
jackie.eckley@illinois.gov
- G) Related rulemakings and other pertinent information: None
- e) Part (Heading and Code Citation): Adult Vocational Community College Scholarship Program (23 Ill. Adm. Code 2745)
- 1) Rulemaking:
- A) Description: This Part is being added in response to legislation (PA 101-315) that created this new program.
- B) Statutory Authority: New Part
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2020 REGULATORY AGENDA

comments in writing to the individual identified in item F, below.

- D) Date Agency anticipates First Notice: January 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor
Springfield IL 62704

217/782-5161
jackie.eckley@illinois.gov

- G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Robert C. Byrd Honors Scholarship Program (23 Ill. Adm. Code 2755)

1) Rulemaking:

- A) Description: This Part is being repealed due to the repeal of the program by the federal government (November 1, 2019 Federal Register, Vol. 84, No. 212, 58931).
- B) Statutory Authority: Implementing Section 65.60 of the Higher Education Student Assistance Act [110 ILCS 947/65.60] and Title IV, Part A, Subpart 6 of the Higher Education Act of 1965, as amended (20 USCA 1070d-31 et seq.) and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2020 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: January 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor
Springfield IL 62704

217/782-5161
jackie.eckley@illinois.gov

- G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Golden Apple Scholars of Illinois Program (23 Ill. Adm. Code 2764)

1) Rulemaking:

- A) Description: This Part is being revised to delete the requirement that institutions submit eligibility information to ISAC, due to a change in the process for determining and announcing awards.
- B) Statutory Authority: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date Agency anticipates First Notice: January 2020

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2020 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor
Springfield IL 62704
- 217/782-5161
jackie.eckley@illinois.gov
- G) Related rulemakings and other pertinent information: None
- h) Part (Heading and Code Citation): AIM HIGH Grant Pilot Program (23 Ill. Adm. Code 2766)
- 1) Rulemaking:
- A) Description: This Part is being revised to incorporate institutions' ability to retain interest earned on retained program funds, and to revise the period of time used to determine an institution's Maintenance of Effort (MOE) amount, both revisions necessary as a result of legislative changes (PA 100-1183 and HB 744, respectively).
- B) Statutory Authority: Implementing and authorized by Section 65.100 of the Higher Education Student Assistance Act [110 ILCS 947/65.100].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date Agency anticipates First Notice: January 2020
- E) Effect on small businesses, small municipalities or not-for-profit

ILLINOIS STUDENT ASSISTANCE COMMISSION

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corporations: None

F) Agency contact person for information:

Jackie Eckley
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jackie.eckley@illinois.gov

G) Related rulemakings and other pertinent information: Nonei) Part (Heading and Code Citation): Public University Uniform Admission Pilot Program
(23 Ill. Adm. Code 2773)1) Rulemaking:

A) Description: This Part is being added in response to legislation (PA 101-448) that created this new program.

B) Statutory Authority: New Act

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date Agency anticipates First Notice: January 2020

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Jackie Eckley
Agency Rules Coordinator

ILLINOIS STUDENT ASSISTANCE COMMISSION

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Illinois Student Assistance Commission
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- G) Related rulemakings and other pertinent information: None

OFFICE OF THE SECRETARY OF STATE

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- a) Part (Heading and Code Citation): Public Use of the Capitol Complex and Springfield Facilities (71 Ill. Adm. Code 2005)
- 1) Rulemaking:
- A) Description: The Secretary of State anticipates rulemaking that will correct certain outdated provisions, as well as enhance and clarify security measures necessary in and around the Capitol Building.
- B) Statutory Authority: The Illinois Secretary of State Act, 15 ILCS 305/5
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: March 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Amy Williams
Assistant Legal Advisor
298 Howlett Building
Springfield IL 62704
- 217/785-3094
fax: 217/524-1689
awilliams3@ilsos.net
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Illinois State Library, Library Operations Division, Illinois Documents Section (23 Ill. Adm. Code 3010)
- 1) Rulemaking:
- A) Description: Provide increased access for the public to the collections of materials available at the Illinois State Library.

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- B) Statutory Authority: Implementing and authorized by the State Library Act [15 ILCS 320].
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: June 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
300 South Second Street
Springfield IL 62701-1796

217/558-4185
fax: 217/557-2619
jnatale@ilsos.net

- G) Related rulemakings and other pertinent information: Creation of Section 23 Ill. Adm. Code 3050.100 to allow non-residents to check out material from the Illinois State Library.

- c) Part (Heading and Code Citation): Public Library Non-Resident Services (23 Ill. Adm. Code 3050)

1) Rulemaking:

- A) Description: Create Section 3050.100 allowing non-residents to use their Illinois state issued driver's license or identification card to check out material from the Illinois State Library's collection.
- B) Statutory Authority: Implementing and authorized by Section 4-7 of the Illinois Local Library Act [75 ILCS 5/4-7], and authorized by Section 30-

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55.60 of the Public Library District Act of 1991 [75 ILCS 16/30-55.60] and Section 8.25 of the State Mandates Act [30 ILCS 805/8.25].

- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: June 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
300 South Second Street
Springfield IL 62701-1796

217/558-4185
fax: 217/557-2619
jnatale@ilsos.net

- G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): State Records Commission (44 Ill. Adm. Code 4400)

1) Rulemaking:

- A) Description: Proposed amendments will update and will add greater detail to existing procedures for the disposal of records.
- B) Statutory Authority: State Records Act [5 ILCS 160]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: July 2020

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E) Effect on small businesses, small municipalities or not-for-profit corporations: The rule applies only to State agencies.

F) Agency contact person for information:

David A. Joens, Director
Illinois State Archives
2 W Norton Building
Springfield IL 62756

217/782-3492
fax: 217/524-3930
djoens@ilsos.gov

G) Related rulemaking or other pertinent information: None

e) Part (Heading and Code Citation): Local Records Commission of Cook County (44 Ill. Adm. Code 4500)

1) Rulemaking:

A) Description: Proposed amendments will update and will add greater detail to existing procedures for the disposal of records.

B) Statutory Authority: Local Records Act [50 ILCS 205]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2020

E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments apply to local units of government, including municipalities. There will be no fiscal impact on the municipalities. The amendments seek to update existing procedures.

F) Agency contact person for information:

David A. Joens, Director
Illinois State Archives

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2 W Norton Building
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djoens@ilsos.gov

G) Related rulemaking or other pertinent information: None

f) Part (Heading and Code Citation): Local Records Commission (44 Ill. Adm. Code 4000)

1) Rulemaking:

A) Description: Proposed amendments will update and will add greater detail to existing procedures for the disposal of records.

B) Statutory Authority: Local Records Act [50 ILCS 205]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2020

E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments apply to local units of government, including municipalities. There will be no fiscal impact on the municipalities. The amendments seek to update existing procedures.

F) Agency contact person for information:

David A. Joens, Director
Illinois State Archives
2 W Norton Building
Springfield IL 62756

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fax: 217/524-3930
djoens@ilsos.gov

G) Related rulemaking or other pertinent information: None

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- g) Part (Heading and Code Citation): Illinois Electronic Recording Commission (14 Ill. Adm. Code Part 1400)
- 1) Rulemaking:
- A) Description: Proposed amendments will update and add greater detail to existing procedures for electronic recording of documents with recorders' offices in Illinois.
- B) Statutory Authority: Section 5 of the Uniform Real Property Electronic Recording Act [765 ILCS 33/5]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: July 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Updating the rules for e-recording may slightly affect the business practices of lending institutions, realtors, notaries and other businesses and vendors involved with electronic recording with county recorder's offices. There should be no fiscal impact on these institutions. The amendments seek to update existing procedures and standards.
- F) Agency contact person for information:
- David A. Joens, Director
Illinois State Archives
2 W Norton Building
Springfield IL 62756
- 217/782-3492
fax: 217/524-3930
djoens@ilsos.gov
- G) Related rulemaking or other pertinent information: None

OFFICE OF THE STATE TREASURER

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- a) Part (Heading and Code Citation): College Savings Pool (23 Ill. Adm. Code 2500)
- 1) Rulemaking:
- A) Description: This rulemaking updates the existing rule to make it consistent with PA 100-905 and 101-26. The changes will provide clarification as to how the pool is administered in accordance with the amended state statute as well as federal statutes and guidelines provided by federal regulatory agencies.
- B) Statutory Authority: Section 16.5(n) of the State Treasurer Act [15 ILCS 505/16.5(n)]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: June 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Joanna Coll
Assistant General Counsel
Illinois State Treasurer
219 State House
Springfield IL 62706
- 217/782-9722
fax: 217/785-2777
JColl@illinoistreasurer.gov
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Achieving a Better Life Experience (ABLE) Account Program (74 Ill. Adm. Code 722)
- 1) Rulemaking:

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- A) Description: This rulemaking revises the existing rule to make it consistent with PA 101-329, which was enacted on August 9, 2019. Among other things, the changes will allow guardians of the person to open ABLE accounts and make it easier for guardians and designated representatives to establish ABLE accounts.
- B) Statutory Authority: Section 16.6(p) of the State Treasurer Act [15 ILCS 505/16.6(p)]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: June 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Joanna Coll
Assistant General Counsel
Illinois State Treasurer
219 State House
Springfield IL 62706

217/782-9722
fax: 217/785-2777
JColl@illinoistreasurer.gov

- G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): E-Pay Program (74 Ill. Adm. Code 735)

1) Rulemaking:

- A) Description: This rulemaking will provide guidance on the implementation of PA 100-490, which clarifies that public agencies should use the E-Pay Program for all revenues received unless an exception is granted by the Treasurer.

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- B) Statutory Authority: Section 17 of the State Treasurer Act [15 ILCS 505/17]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: June 2020
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Sara Meek
Legislative Director
Illinois State Treasurer
219 State House
Springfield IL 62706
- 217/524-0530
fax: 217/785-2777
SMeek@illinoistreasurer.gov
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF TRANSPORTATION

JANUARY 2020 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Rates to be Charged by Official Testing Stations for Vehicles Other than School Buses (92 Ill. Adm. Code 454)
- 1) Rulemaking:
- A) Description: To eliminate redundancies in its regulations, the Department will propose a new Part 454 which will combine Parts 446 and 454. Additional minor changes will be proposed.
- B) Statutory Authority: 625 ILCS 5/13-101
- C) Scheduled meeting/hearing date: None scheduled.
- D) Date Agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect those small businesses that operate an official testing station under permit by the Department.
- F) Agency contact person for information:
- Greg Stucka, Rules Manager
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 317
Springfield IL 62764
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Administrative Requirements for Official Testing Stations (92 Ill. Adm. Code 451)
- 1) Rulemaking:
- A) Description: The Department will propose significant updates to this Part to address changes in operational requirements for official testing stations. The proposed amendments will include updated procedures for the completion and submission of vehicle inspection reports, additions to the list of approved testing equipment, and amendments to CST testing and qualification requirements. Additional changes are expected.

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- B) Statutory Authority: 625 ILCS 5/6-410; 625 ILCS 5/12-812; and 625 ILCS 5/Ch. 13
- C) Scheduled meeting/hearing date: None scheduled.
- D) Date Agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect small businesses or small municipalities that operate official testing stations in Illinois.
- F) Agency contact person for information:
- Greg Stucka, Rules Manager
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 317
Springfield IL 62764
- G) Related rulemakings and other pertinent information: None

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