

2008

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 32, Issue 33
August 15, 2008
Pages 13374-13617

Index Department
Administrative Code Division
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

TABLE OF CONTENTS

August 15, 2008 Volume 32, Issue 33

PROPOSED RULES

FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF
Life Insurance Solicitation
50 Ill. Adm. Code 93013374
Actuarial Opinion and Memorandum
50 Ill. Adm. Code 140813397
Insurance Data Reporting Requirements
50 Ill. Adm. Code 420313439

ADOPTED RULES

COMMERCE AND ECONOMIC OPPORTUNITY, DEPARTMENT OF
Illinois Promotion Act Programs
14 Ill. Adm. Code 51013443
HUMAN RIGHTS, DEPARTMENT OF
Discrimination Involving Credit
38 Ill. Adm. Code 80013475
Procedures of the Department of Human Rights
56 Ill. Adm. Code 252013482
Housing Discrimination
71 Ill. Adm. Code 230013497
LABOR, DEPARTMENT OF
Employee Classification
56 Ill. Adm. Code 24013504
RACING BOARD, ILLINOIS
Interstate Common Pools
11 Ill. Adm. Code 30213522
Superfecta
11 Ill. Adm. Code 31113525
Exacta Double
11 Ill. Adm. Code 32013530
TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS
The Administration and Operation of the Teachers' Retirement System
80 Ill. Adm. Code 165013534

JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES
August Agenda13587

SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES
Second Notices Received13594

OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER

ENVIRONMENTAL PROTECTION AGENCY

Listing of Derived Water Quality Criteria.....	13595
REVENUE, DEPARTMENT OF	
2008 Second Quarter Income Tax Sunshine Index.....	13605
EXECUTIVE ORDERS AND PROCLAMATIONS	
PROCLAMATIONS.	
Ukrainian Independence Day	
2008-305	13609
Jobs For Youth Month	
2008-306	13610
National Convention of Gospel Choirs and Choruses Week	
2008-307	13611
Silver Star Day	
2008-308	13611
NASA Day	
2008-309	13612
Alzheimer's Disease Awareness Month	
2008-310	13613
Indian Independence Day	
2008-311	13614
Recognition of Dunn Fellows	
2008-312	13615
National Alpaca Farm Days	
2008-313	13616

INTRODUCTION

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

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

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

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

2008 REGISTER SCHEDULE VOLUME #32

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 21, 2007*	January 4, 2008
2	December 31, 2007	January 11, 2008
3	January 7, 2008	January 18, 2008
4	January 14, 2008	January 25, 2008
5	January 22, 2008	February 1, 2008
6	January 28, 2008	February 8, 2008
7	February 4, 2008	February 15, 2008
8	February 11, 2008	February 22, 2008
9	February 19, 2008	February 29, 2008
10	February 25, 2008	March 7, 2008
11	March 3, 2008	March 14, 2008
12	March 10, 2008	March 21, 2008
13	March 17, 2008	March 28, 2008
14	March 24, 2008	April 4, 2008
15	March 31, 2008	April 11, 2008
16	April 7, 2008	April 18, 2008
17	April 14, 2008	April 25, 2008
18	April 21, 2008	May 2, 2008
19	April 28, 2008	May 9, 2008
20	May 5, 2008	May 16, 2008
21	May 12, 2008	May 23, 2008
22	May 19, 2008	May 30, 2008
23	May 27, 2008	June 6, 2008

24	June 2, 2008	June 13, 2008
25	June 9, 2008	June 20, 2008
26	June 16, 2008	June 27, 2008
27	June 23, 2008	July 7, 2008
28	June 30, 2008	July 11, 2008
29	July 7, 2008	July 18, 2008
30	July 14, 2008	July 25, 2008
31	July 21, 2008	August 1, 2008
32	July 28, 2008	August 8, 2008
33	August 4, 2008	August 15, 2008
34	August 11, 2008	August 22, 2008
35	August 18, 2008	August 29, 2008
36	August 25, 2008	September 5, 2008
37	September 2, 2008	September 12, 2008
38	September 8, 2008	September 19, 2008
39	September 15, 2008	September 26, 2008
40	September 22, 2008	October 3, 2008
41	September 29, 2008	October 10, 2008
42	October 6, 2008	October 17, 2008
43	October 14, 2008	October 24, 2008
44	October 20, 2008	October 31, 2008
45	October 27, 2008	November 7, 2008
46	November 3, 2008	November 14, 2008
47	November 10, 2008	November 21, 2008
48	November 17, 2008	December 1, 2008
49	November 24, 2008	December 5, 2008
50	December 1, 2008	December 12, 2008
51	December 8, 2008	December 19, 2008
52	December 15, 2008	December 26, 2008
53	December 22, 2008	January 2, 2009

Editor's Note: The Regulatory Agenda submission period will end July.1, 2008. The Division is no longer accepting Regulatory Agendas. The second filing period for submitting will start October 14, 2008 with the last day to file on January 2, 2009.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Life Insurance Solicitation
- 2) Code Citation: 50 Ill. Adm. Code 930
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
930.40	Amendment
930.50	Amendment
930.80	Amendment
930.Exhibit A	Amendment
930.Exhibit B	New Section
- 4) Statutory Authority: Implementing Article XXVI and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/421 et seq]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to allow insurers to use the National Association of Insurance Commissioner's (NAIC) Life Insurance Buyer's Guide as a substitute for the buyer's guide created by the Division of Insurance. Companies have asked to use the NAIC's Guide in order to maintain uniformity across states in which the companies sell life insurance. Allowing for the use of either Guide in Illinois will improve the efficiency for the life insurer industry while maintaining consumer protections.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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 FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 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:

Eve Blackwell-Lewis
Senior Staff Attorney
Department of Financial and
Professional Regulation
Division of Insurance
320 West Washington, 4th Floor
Springfield, Illinois 62767-0001

or

Craig Cellini
Rules Coordinator
Department of Financial and
Professional Regulation
320 West Washington
3rd Floor
Springfield, Illinois 62767-0001

217/782-2867

217/785-0813

- 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: No new requirements are being promulgated, simply another option for the Buyer's Guide is being included.
- C) Types of professional skills necessary for compliance: Insurance
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF [FINANCIAL AND PROFESSIONAL
REGULATION](#)~~INSURANCE~~

SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 930

LIFE INSURANCE SOLICITATION

Section

930.10	Authority
930.20	Purpose
930.30	Scope
930.40	Definitions
930.50	Disclosure Requirements
930.60	Preneed Funeral Contracts or Prearrangements
930.70	General Rules
930.80	Life Insurance Buyer's Guide, Language and Content
930.90	Failure to Comply
930.EXHIBIT A	Life Insurance Buyer's Guide
930.EXHIBIT B	NAIC Life Insurance Buyer's Guide

AUTHORITY: Implementing Article XXVI and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/421 et seq.].

SOURCE: Adopted at 4 Ill. Reg. 15, p. 177, effective July 1, 1980; codified at 7 Ill. Reg. 2364; amended at 14 Ill. Reg. 13594, effective August 14, 1990; amended at 15 Ill. Reg. 18162, effective December 9, 1991; amended at 20 Ill. Reg. 4313, effective March 4, 1996; recodified at 20 Ill. Reg. 5735; amended at 22 Ill. Reg. 3058, effective June 1, 1998; amended at 32 Ill. Reg. _____, effective _____.

Section 930.40 Definitions

For the purposes of this Part, the following definitions shall apply:

- a) Buyer's Guide. A Buyer's Guide is a document ~~that~~~~which~~ contains, ~~and is limited to,~~ the language contained in Exhibit A [or the National Association of Insurance Commissioner's \(NAIC\) Life Insurance Buyer's Guide contained in Exhibit B,](#) as prescribed by Section 930.80 of this Part.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- b) Cash Dividend. A Cash Dividend is the current illustrated dividend ~~that~~which can be applied toward payment of the gross premium.
- c) Equivalent Level Annual Dividend. The Equivalent Level Annual Dividend is calculated by applying the following steps:
- 1) Accumulate the annual cash dividends at five percent interest compounded annually to the end of the tenth and twentieth policy years.
 - 2) Divide each accumulation of subsection (c)(1) ~~above~~ by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in subsection (c)(1) over the respective periods stipulated in subsection (c)(1). If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.
 - 3) Divide the results of subsection (c)(2) by the number of thousands of the Equivalent Level Death Benefit to arrive at the Equivalent Level Annual Dividend.
- d) Equivalent Level Death Benefit. The Equivalent Level Death Benefit of a policy or term life insurance rider is an amount calculated as follows:
- 1) Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for ten and twenty years at five per cent interest compounded annually to the end of the tenth and twentieth policy years respectively.
 - 2) Divide each accumulation of subsection (d)(1) ~~above~~ by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subsection (d)(1) over the respective periods stipulated in subsection (d)(1). If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.
- e) Generic Name. Generic Name means a short title ~~that~~which is descriptive of the premium and benefit patterns of a policy or a rider.
- f) Guaranteed elements means the premiums, benefits, values, credits or charges

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

under a policy of life insurance that are guaranteed and determined at issue.

- g) Life Insurance Cost Indexes.
- 1) Life Insurance Surrender Cost Index. The Life Insurance Surrender Cost Index is calculated by applying the following steps:
 - A) Determine the guaranteed cash surrender value, if any.
 - B) For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual Cash Dividends at five percent interest compounded annually to the end of the period selected and add this sum to the amount determined in subsection (g)(1)(A).
 - C) Divide the result of subsection (g)(1)(B) (subsection (g)(1)(A) for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subsection (g)(1)(B) (subsection (g)(1)(A) for guaranteed cost policies) over the respective periods stipulated in subsection (g)(1)(A). If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.
 - D) Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at five percent interest compounded annually to the end of the period stipulated in subsection (g)(1)(A) and dividing the result by the respective factors stated in subsection (g)(1)(C) (this amount is the annual premium payable for a level premium plan).
 - E) Subtract the result of subsection (g)(1)(C) from subsection (g)(1)(D).
 - F) Divide the result of subsection (g)(1)(E) by the number of thousands of the Equivalent Level Death Benefit to arrive at the Life Insurance Surrender Cost Index.
 - 2) Life Insurance Net Payment Cost Index. The Life Insurance Net Payment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Cost Index is calculated in the same manner as the comparable Life Insurance Cost Index except that the cash surrender value and any terminal dividend are set at zero.

- h) Non-guaranteed elements means the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.
- i) Policy Summary.
 - 1) For the purposes of this Part, Policy Summary means a written statement describing the elements of the policy including but not limited to:
 - A) A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.
 - B) The name and address of the insurance agent, or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the Policy Summary.
 - C) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.
 - D) The Generic Name of the basic policy and each rider.
 - E) The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including, but not necessarily limited to, the years for which Life Insurance Cost Indexes are displayed and at least one age from 60 through 65 or maturity, whichever is earlier:
 - i) The annual premium for the basic policy.
 - ii) The annual premium for each optional rider.
 - iii) Guaranteed amount payable upon death, at the beginning of the policy year, regardless of the cause of death other than

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- suicide, or other specifically enumerated exclusions, ~~that~~which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.
- iv) Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.
- v) Cash ~~dividends~~Dividends payable at the end of the year, with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)
- vi) Guaranteed endowment amounts payable under the policy ~~that~~which are not included under guaranteed cash surrender values (see subsection (i)(1)(e)(iv))above.
- F) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is variable, the Policy Summary includes the maximum annual percentage rate.
- G) Life Insurance Cost Indexes for ten and twenty years, but in no case beyond the premium paying period. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. ~~Indexes~~Such indexes need not be included for optional riders ~~that~~which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits, nor for the basic policies or optional riders covering more than one life.
- H) The Equivalent Level Annual Dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which Life Insurance Cost Indexes are displayed.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- I) A Policy Summary ~~that~~^{which} includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed. When using Exhibit A, the Policy Summary must be accompanied by~~in addition to~~ a statement in close proximity to the Equivalent Level Annual Dividend as follows: An explanation of the intended use of the Equivalent Level Annual Dividend is included in the Life Insurance Buyer's Guide.
- J) When using Exhibit A, a~~A~~ statement in close proximity to the Life Insurance Cost Indexes as follows: An explanation of the intended use of these indexes is provided in the Life Insurance Buyer's Guide.
- K) The date on which the Policy Summary is prepared.
- 2) The Policy Summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as to not minimize or render any portion thereof obscure. Any amounts ~~that~~^{which} remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in subsection (i)(1)(E)~~above~~ shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.
- j) Preneed Funeral Contract or Prearrangement. An agreement by or for an individual before that individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

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

Section 930.50 Disclosure Requirements

- a) Except ~~for~~ in the case of a direct response insurance product, the insurer shall provide, to all applicants~~prospective purchasers~~, a Buyer's Guide prior to accepting the applicant's initial premium or premium deposit. The Buyer's Guide

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

must be delivered with a direct response policy or prior to delivery of a direct response policy. A Policy Summary must be delivered with, or prior to, delivery of either an agent solicited policy or direct response policy.

- b) ~~Upon request, the~~The insurer shall provide a Buyer's Guide and a Policy Summary to any prospective purchaser ~~prior to application~~~~upon request~~.
- c) In the case of policies whose Equivalent Level Death Benefit does not exceed \$5,000, the requirement for providing a Policy Summary will be satisfied by delivery of a written statement containing the information described in Section 930.40(i)(1)(B)-(E)(iii), (i)(1)(F), (i)(1)(G), (i)(1)(J), and (i)(1)(K).
- d) A policy summary is not required to include information available in the policy form or illustrations. If an illustration subject to the requirements of 50 Ill. Adm. Code 1406.50(b) is used in the sale of a policy, a policy summary does not have to be provided. Only "guaranteed elements" may be shown in the policy summary.

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

Section 930.80 Life Insurance Buyer's Guide, Language and Content

The form requirements of the Life Insurance Buyer's Guide are found in Exhibit A or Exhibit B of this Part. The reproduction of the Buyer's Guide should be as specified in Exhibit A or Exhibit B, except with the one exception that the designation "Exhibit A" or "Exhibit B" assigned by the Illinois Department of Insurance should not be used.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 930.EXHIBIT A Life Insurance Buyer's Guide

(The face page of the Buyer's Guide shall read as follows)

LIFE INSURANCE BUYER'S GUIDE

This guide can show you how to save money when you shop for life insurance. It helps you to:

- Decide how much life insurance you should buy,
- Decide what kind of life insurance policy you need, and
- Compare the relative cost of similar life insurance policies.

This guide has been prepared by the Illinois Department of Insurance, in part using materials developed by National Association of Insurance Commissioners.

(The following language shall appear at the bottom of page 2)

The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various State Insurance Departments to coordinate insurance laws for the benefit of all consumers. You are urged to use this Guide in making a life insurance purchase.

THIS GUIDE DOES NOT ENDORSE ANY COMPANY OR POLICY

(The remaining text of the Buyer's Guide shall begin on page 3 as follows)

Buying Life Insurance

When you buy life insurance, you want a policy which fits your needs without costing too much. Your first step is to decide how much you need, how much you can afford to pay and the kind of policy you want. Then, find out what various companies charge for that kind of policy. You can find important differences in the cost of life insurance by using the life insurance cost indexes which are described in this guide. A good life insurance agent or company will be able and willing to help you with each of these shopping steps.

If you are going to make a good choice when you buy life insurance, you need to understand which kinds are available. If one kind does not seem to fit your needs, ask about the other kinds which are described in this guide. If you feel that you need more information than is given here, you may want to check with a life insurance agent or company or books on life insurance in your

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

public library. Life insurance can be bought either on an individual basis or on a group basis. Group insurance may be inexpensive when compared to individual insurance. It is important to remember that insurance purchased on this basis is usually term insurance, and hence will not develop cash values, and is dependent on your continued membership in the group or employment. Also, the amount of insurance that is available for purchase is usually limited.

Choosing the Amount

One way to decide how much life insurance you need is to figure how much cash and income your dependents would need if you were to die. Life insurance can provide cash for last expenses, and income for you family's future living expenses.

Your insurance should come as close as you can afford to make up the difference between (1) what your dependents would have if you were to die now, and (2) what they would actually need at some time in the future when needs change.

Choosing the Right Kind

All life insurance policies agree to pay an amount of money if you die. But all policies are not the same. There are three basic kinds of life insurance:

1. Term insurance
2. Whole life insurance
3. Endowment insurance

The kind of life insurance you purchase is dependent on the need you are trying to satisfy. Some needs are temporary, i.e. do not exist throughout your life, while other needs are permanent. As an example, the need to finance your children's education is a temporary need. The need to meet mortgage payments is also a temporary need since it exists only while the mortgage exists. On the other hand, the financial needs of your family after your death is a permanent need.

Remember, no matter how fancy the policy title or sales presentation might appear, all life insurance policies contain one or more of the three basic kinds. If you are confused about a policy that sounds complicated, ask the agent if it combines more than one kind of life insurance. The following is a brief description of the three basic kinds:

Term Insurance

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Term insurance is death protection for a "term" of one or more years. Death benefits will be paid only if you die within that term of years. Term insurance generally provides the largest immediate death protection for your premium dollar.

Some term insurance policies are "renewable" for one or more additional terms even if your health has changed. Each time you renew the policy for a new term, premiums will be higher. You should check the premiums at older ages and the length of time the policy can be continued.

Some term insurance policies are also "convertible." This means that before the end of the conversion period, you may trade the term policy for a whole life or endowment insurance policy even if you are not in good health. Premiums for the new policy will be higher than you have been paying for the term insurance.

Whole Life Insurance

Whole life insurance gives death protection for as long as you live. The most common type is called "straight life" or "ordinary life" insurance, for which you pay the same premiums for as long as you live. These premiums can be several times higher than you would pay initially for the same amount of term insurance. But they are smaller than the premiums you would eventually pay if you were to keep renewing a term insurance policy until your later years.

Some whole life policies let you pay premiums for a shorter period such as 20 years, or until age 65. Premiums for these policies are higher than for ordinary life insurance since the premium payments are squeezed into a shorter period.

Although you pay higher premiums, to begin with, for whole life insurance than for term insurance, whole life insurance policies develop "cash values" which you may have if you stop paying premiums. You can generally either take the cash, or use it to buy some continuing insurance protection. Technically speaking, these values are called "nonforfeiture benefits." This refers to benefits you do not lose (or "forfeit") when you stop paying premiums. The amount of these benefits depends on the kind of policy you have, its size, and how long you have owned it.

A policy with cash values may also be used as collateral for a loan. If you borrow from the life insurance company, the rate of interest is shown in your policy. Any money which you owe on a policy loan would be deducted from the benefits if you were to die, or from the cash value if you were to stop paying premiums.

Endowment Insurance

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

An endowment insurance policy pays a sum or income to you – the policyholder – if you live to a certain age. If you were to die before then, the death benefit would be paid to your beneficiary. Premiums and cash values for endowment insurance are higher than for the same amount of whole life insurance. Thus endowment insurance gives you the least amount of death protection for your premium dollar.

Finding a Low Cost Policy

After you have decided which kind of life insurance fits your needs, look for a good buy. YOUR ~~CHANCES~~ CHANGES OF FINDING A GOOD BUY ARE BETTER IF YOU USE TWO TYPES OF INDEX NUMBERS THAT HAVE BEEN DEVELOPED TO AID IN SHOPPING FOR LIFE INSURANCE. One is called the "Surrender Cost Index" and the other is the "Net Payment Cost Index." It will be worth your time to try to understand how these indexes are used, but in any event, use them ONLY for comparing the relative costs of similar policies. LOOK FOR POLICIES WITH LOW COST INDEX NUMBERS.

What Is Cost?

"Cost" is the difference between what you pay and what you get back. If you pay a premium for life insurance and get nothing back, your cost for the death protection is the premium. If you pay a premium and get something back later on, such as a cash value, your cost is smaller than the premium.

The cost of some policies can also be reduced by dividends; these are called "participating" policies. Companies may tell you what their current dividends are, but the size of future dividends is unknown today and cannot be guaranteed. Dividends actually paid are set each year by the company.

Some policies do not pay dividends. These are called "guaranteed cost" or "non-participating" policies. Every feature of a guaranteed cost policy is fixed so that you know in advance what your future cost will be.

The premiums and cash values of a participating policy are guaranteed, but the dividends are not. Premiums for participating policies are typically higher than for guaranteed cost policies, but the cost to you may be higher or lower, depending on the dividends actually paid.

What Are Cost Indexes?

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

In order to compare the cost of policies, you need to look at:

1. Premiums
2. Cash Values
3. Dividends

Cost indexes use one or more of these factors to give you a convenient way to compare relative costs of similar policies. When you compare costs, an adjustment must be made to take into account that money is paid and received at different times. It is not enough to just add up the premiums you will pay and to subtract the cash values and dividends you expect to get back. These indexes take care of the arithmetic for you. Instead of having to add, subtract, multiply and divide many numbers yourself, you just compare the index numbers which you can get from life insurance agents and companies:

1. Life Insurance Surrender Cost Index. This index is useful if you consider the level of the cash values to be of primary importance to you. It helps you compare costs if at some future point in time, such as 10 or 20 years, you were to surrender the policy and take its cash value.
2. Life Insurance Net Payment Cost Index. This index is useful if your main concern is the benefits that are to be paid at your death and if the level of cash values is of secondary importance to you. It helps you compare costs at some future point in time, such as 10 or 20 years, if you continue paying premiums on your policy and do not take its cash value.

There is another number called the Equivalent Level Annual Dividend. It shows the part dividends play in determining the cost index of a participating policy. Adding a policy's Equivalent Level Annual Dividend to its cost index allows you to compare total costs of similar policies before deducting dividends. However, if you make any cost comparisons of a participating policy with a non-participating policy, remember that the total cost of the participating policy will be reduced by dividends, but the cost of the non-participating policy will not change.

How Do I Use Cost Indexes?

The most important thing to remember when using cost indexes is that a policy with a small index number is generally a better buy than a comparable policy with a larger index number.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

The following rules are also important:

- (1) Cost comparisons should only be made between similar plans of life insurance. Similar plans are those which provide essentially the same basic benefits and require premium payments for approximately the same period of time. The closer policies are to being identical, the more reliable the cost comparison will be.
- (2) Compare index numbers only for the kind of policy, for your age and for the amount you intend to buy. Since no one company offers the lowest cost for all types of insurance at all ages and for all amounts of insurance, it is important that you get the indexes for the actual policy, age and amount which you intend to buy. Just because a "Shopper's Guide" tells you that one company's policy is a good buy for a particular age and amount, you should not assume that all of that company's policies are equally good buys.
- (3) Small differences in index numbers could be offset by other policy features, or differences in the quality of service you may expect from the company or its agent. Therefore, when you find small differences in cost indexes, your choice should be based on something other than cost.
- (4) In any event, you will need other information on which to base your purchase decision. **BE SURE YOU CAN AFFORD THE PREMIUMS, AND THAT YOU UNDERSTAND ITS CASH VALUES, DIVIDENDS AND DEATH BENEFITS.** You should also make a ~~judgment~~judgement on how well the life insurance company or agent will provide service in the future, to you as a policyholder.
- (5) These life insurance cost indexes apply to new policies and should not be used to determine whether you should drop a policy you have already owned for awhile, in favor of a new one. If such a replacement is suggested, you should ask for information from the company which issued the old policy before you take action.
- (6) An important fact to note is the difference in premium payments paid during one year's time based on an annual premium versus the annualized periodic premium. For example, if you choose to pay premiums on a monthly basis, the annualized periodic premium would be twelve (12) times the monthly premium. There may be a significant difference between the annualized periodic premium and the annual premium and it should be considered when deciding on a payment schedule.

Important Things to Remember – A Summary

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

The first decision you must make when buying a life insurance policy is choosing a policy whose benefits and premiums most closely meet your needs and ability to pay. Next, find a policy which is also a relatively good buy. If you compare Surrender Cost Indexes and Net Payment Cost Indexes of similar competing policies, your chances of finding a relatively good buy will be better than if you do not shop. **REMEMBER, LOOK FOR POLICIES WITH LOWER COST INDEX NUMBERS.** A good life insurance agent can help you to choose the amount of life insurance and kind of policy you want and will give you cost indexes so that you can make cost comparisons of similar policies. **DON'T BUY LIFE INSURANCE UNLESS YOU INTEND TO STICK WITH IT.** A policy which is a good buy when held for 20 years can be very costly if you quit during the early years of the policy. If you surrender such a policy during the first few years, you may get little or nothing back and much of your premium may have been used for company expenses.

Read your new policy carefully, and ask the agent or company for an explanation of anything you do not understand. Whatever you decide now, it is important to review your life insurance program every few years to keep up with changes in your income and responsibilities.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 930.EXHIBIT B NAIC Life Insurance Buyer's Guide

(The face page of the Buyer's Guide shall read as follows)

Life Insurance Buyer's Guide

This guide can help you when you shop for life insurance. It discusses how to:

- Find a Policy That Meets Your Needs and Fits Your Budget
- Decide How Much Insurance You Need
- Make Informed Decisions When You Buy a Policy

The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various insurance departments to coordinate insurance laws for the benefit of all consumers.

This guide does not endorse any company or policy.

Reprinted by...

IMPORTANT THINGS TO CONSIDER

1. Review your own insurance needs and circumstances. Choose the kind of policy that has benefits that most closely fit your needs. Ask an agent or company to help you.
2. Be sure that you can handle premium payments. Can you afford the initial premium? If the premium increases later and you still need insurance, can you still afford it?
3. Don't sign an insurance application until you review it carefully to be sure all the answers are complete and accurate.
4. Don't buy life insurance unless you intend to stick with your plan. It may be very costly if you quit during the early years of the policy.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

5. Don't drop one policy and buy another without a thorough study of the new policy and the one you have now. Replacing your insurance **may be costly**.
6. Read your policy carefully. Ask your agent or company about anything that is not clear to you.
7. Review your life insurance program with your agent or company every few years to keep up with changes in your income and your needs.

Buying Life Insurance

When you buy life insurance, you want coverage that fits your needs.

First, decide how much you need – and for how long – and what you can afford to pay. Keep in mind the major reason you buy life insurance is to cover the financial effects of unexpected or untimely death. Life insurance can also be one of many ways you plan for the future.

Next, learn what kinds of policies will meet your needs and pick the one that best suits you.

Then, choose the combination of policy premium and benefits that emphasizes protection in case of early death, or benefits in case of long life, or a combination of both.

It makes good sense to ask a life insurance agent or company to help you. An agent can help you review your insurance needs and give you information about the available policies. If one kind of policy doesn't seem to fit your needs, ask about others.

This guide provides only basic information. You can get more facts from a life insurance agent or company or from your public library.

What About the Policy You Have Now?

If you are thinking about dropping a life insurance policy, here are some things you should consider:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- If you decide to replace your policy, don't cancel your old policy until you have received the new one. You then have a minimum period to review your new policy and decide if it is what you wanted.
- It may be costly to replace a policy. Much of what you paid in the early years of the policy you have now paid for the company's cost of selling and issuing the policy. You may pay this type of cost again if you buy a new policy.
- Ask your tax advisor if dropping your policy could affect your income taxes.
- If you are older or your health has changed, premiums for the new policy will often be higher. You will not be able to buy a new policy if you are not insurable.
- You may have valuable rights and benefits in the policy you now have that are not in the new one.
- If the policy you have now no longer meets your needs, you may not have to replace it. You might be able to change your policy or add to it to get the coverage or benefits you now want.
- At least in the beginning, a policy may pay no benefits for some causes of death covered in the policy you have now.

In all cases, if you are thinking of buying a new policy, check with the agent or company that issued you the one you have now. When you bought your old policy, you may have seen an illustration of the benefits of your policy. Before replacing your policy, ask your agent or company for an updated illustration. Check to see how the policy has performed and what you might expect in the future, based on the amounts the company is paying now.

How Much Do You Need?

Here are some questions to ask yourself:

- How much of the family income do I provide? If I were to die early, how would my survivors, especially my children, get by? Does anyone else depend on me financially, such as a parent, grandparent, brother or sister?
- Do I have children for whom I'd like to set aside money to finish their education in the event of my death?

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- [How will my family pay final expenses and repay debts after my death?](#)
- [Do I have family members or organizations to whom I would like to leave money?](#)
- [Will there be estate taxes to pay after my death?](#)
- [How will inflation affect future needs?](#)

[As you figure out what you must have to meet these needs, count the life insurance you have now, including any group insurance where you work or veteran's insurance. Don't forget Social Security and pension plan survivor's benefits. Add other assets you have: savings, investments, real estate and personal property. Which assets would your family sell or cash in to pay expenses after your death?](#)

[What Is the Right Kind of Life Insurance?](#)

[All policies are not the same. Some give coverage for your lifetime and others cover you for a specific number of years. Some build up cash values and others do not. Some policies combine different kinds of insurance, and others let you change from one kind of insurance to another. Some policies may offer other benefits while you are still living. Your choice should be based on your needs and what you can afford.](#)

[There are two basic types of life insurance: **term insurance** and **cash value insurance**. Term insurance generally has lower premiums in the early years, but does not build up cash values that you can use in the future. You may combine cash value life insurance with term insurance for the period of your greatest need for life insurance to replace income.](#)

[**Term Insurance** covers you for a term of one or more years. It pays a death benefit only if you die in that term. Term insurance generally offers the largest insurance protection for your premium dollar. It generally does not build up cash value.](#)

[You can renew most term insurance policies for one or more terms even if your health has changed. Each time you renew the policy for a new term, premiums may be higher. Ask what the premiums will be if you continue to renew the policy. Also ask if you will lose the right to renew the policy at some age. For a higher premium, some companies will give you the right to keep the policy in force for a guaranteed period at the same price each year. At the end of that time you may need to pass a physical examination to continue coverage, and premiums may increase.](#)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

You may be able to trade many term insurance policies for a cash value policy during a conversion period – even if you are not in good health. Premiums for the new policy will be higher than you have been paying for the term insurance.

Cash Value Life Insurance is a type of insurance where the premiums charged are higher at the beginning than they would be for the same amount of term insurance. The part of the premium that is not used for the cost of insurance is invested by the company and builds up a cash value that may be used in a variety of ways. You may borrow against a policy's cash value by taking a policy loan. If you don't pay back the loan and the interest on it, the amount you owe will be subtracted from the benefits when you die, or from the cash value if you stop paying premiums and take out the remaining cash value. You can also use your cash value to keep insurance protection for a limited time or to buy a reduced amount without having to pay more premiums. You also can use the cash value to increase your income in retirement or to help pay for needs such as a child's tuition without canceling the policy. However, to build up this cash value, you must pay higher premiums in the earlier years of the policy. Cash value life insurance may be one of several types; whole life, universal life and variable life are all types of cash value insurance.

Whole Life Insurance covers you for as long as you live if your premiums are paid. You generally pay the same amount in premiums for as long as you live. When you first take out the policy, premiums can be several times higher than you would pay initially for the same amount of term insurance. But they are smaller than the premiums you would eventually pay if you were to keep renewing a term policy until your later years.

Some whole life policies let you pay premiums for a shorter period such as 20 years, or until age 65. Premiums for these policies are higher since the premium payments are made during a shorter period.

Universal Life Insurance is a kind of flexible policy that lets you vary your premium payments. You can also adjust the face amount of your coverage. Increases may require proof that you qualify for the new death benefit. The premiums you pay (less expense charges) go into a policy account that earns interest. Charges are deducted from the account. If your yearly premium payment plus the interest your account earns is less than the charges, your account value will become lower. If it keeps dropping, eventually your coverage will end. To prevent that, you may need to start making premium payments, or increase your premium payments, or lower your death benefits. Even if there is enough in your account to pay the premiums, continuing to pay premiums yourself means that you build up more cash value.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Variable Life Insurance is a kind of insurance where the death benefits and cash values depend on the investment performance of one or more separate accounts, which may be invested in mutual funds or other investments allowed under the policy. Be sure to get the prospectus from the company when buying this kind of policy and **STUDY IT CAREFULLY**. You will have higher death benefits and cash value if the underlying investments do well. Your benefits and cash value will be lower or may disappear if the investments you chose didn't do as well as you expected. You may pay an extra premium for a guaranteed death benefit.

Life Insurance Illustrations

You may be thinking of buying a policy where cash values, death benefits, dividends or premiums may vary based on events or situations the company does not guarantee (such as interest rates). If so, you may get an illustration from the agent or company that helps explain how the policy works. The illustration will show how the benefits that are not guaranteed will change as interest rates and other factors change. The illustration will show you what the company guarantees. It will also show you what could happen in the future. Remember that nobody knows what will happen in the future. You should be ready to adjust your financial plans if the cash value doesn't increase as quickly as shown in the illustration. You will be asked to sign a statement that says you understand that some of the numbers in the illustration are not guaranteed.

Finding a Good Value in Life Insurance

After you have decided which kind of life insurance is best for you, compare similar policies from different companies to find which one is likely to give you the best value for your money. A simple comparison of the premiums is not enough. There are other things to consider. For example:

- Do premiums or benefits vary from year to year?
- How much do the benefits build up in the policy?
- What part of the premiums or benefits is not guaranteed?
- What is the effect of interest on money paid and received at different times on the policy?

Remember that no one company offers the lowest cost at **all** ages for **all** kinds and amounts of insurance. You should also consider other factors:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- How quickly does the cash value grow? Some policies have low cash values in the early years that build quickly later on. Other policies have a more level cash value build-up. A year-by-year display of values and benefits can be very helpful. (The agent or company will give you a policy summary or an illustration that will show benefits and premiums for selected years.)
- Are there special policy features that particularly suit your needs?
- How are nonguaranteed values calculated? For example, interest rates are important in determining policy returns. In some companies, increases reflect the average interest earnings on all of that company's policies regardless of when issued. In others, the return for policies issued in a recent year, or a group of years, reflects the interest earnings on that group of policies; in this case, amounts paid are likely to change more rapidly when interest rates change.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Actuarial Opinion and Memorandum
- 2) Code Citation: 50 Ill. Adm. Code 1408
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1408.10	Amendment
1408.20	Amendment
1408.30	Amendment
1408.40	Amendment
1408.50	Repealed
1408.60	Repealed
1408.80	Amendment
1408.90	Repealed
1408.ILLUSTRATION A	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 223 of the Illinois Insurance Code [215 ILCS 5/223]
- 5) A Complete Description of the Subjects and Issues Involved: The NAIC adopted changes to their Actuarial Opinion and Memorandum model regulation # 822. The model now requires all, or almost all, companies to perform an asset adequacy analysis to help assure reserve adequacy. The model includes an exemption that states may opt to include in their regulation, which allows companies and fraternal only doing business in their state of domicile to be exempt from the asset adequacy testing. That exemption is included in this amendment.

Currently our Illinois regulation exempts some companies from this requirement based on various aspects of their balance sheet. Most companies that are currently exempt from performing an asset adequacy analysis in Illinois will now be required to do the analysis, resulting in additional costs to be borne by those companies.

Our State standards must be made consistent with those of the NAIC to assure continued NAIC accreditation status. The amendments to this Part will clarify our regulatory intent.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: 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:

Eve Blackwell-Lewis
Senior Staff Attorney
Department of Financial and
Professional Regulation
Division of Insurance
320 West Washington, 4th Floor
Springfield, Illinois 62767-0001

or

Craig Cellini
Rules Coordinator
Department of Financial and
Professional Regulation
320 West Washington
3rd Floor
Springfield, Illinois 62767-0001

217/782-2867

217/785-0813

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments will not affect small businesses, small municipalities or not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: An asset adequacy analysis will need to be prepared, as required by this Part.
- C) Types of professional skills necessary for compliance: Actuarial
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF [FINANCIAL AND PROFESSIONAL REGULATION](#)
[INSURANCE](#)

SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCE

PART 1408

ACTUARIAL OPINION AND MEMORANDUM

Section

1408.10	Purpose
1408.20	Scope
1408.30	Definitions
1408.40	General Requirements
1408.50	Required Opinions (Repealed)
1408.60	Statement of Actuarial Opinion Not Including an Asset Adequacy Analysis (Repealed)
1408.70	Statement of Actuarial Opinion Based on Asset Adequacy Analysis
1408.80	Description of Actuarial Memorandum, Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary
1408.90	Additional Considerations for Analysis (Repealed)
1408.ILLUSTRATION A	Statement of Actuarial Opinion Based on Asset Adequacy Analysis Format

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

SOURCE: Adopted at 17 Ill. Reg. 4195, effective March 23, 1993; amended at 32 Ill. Reg. _____, effective _____.

Section 1408.10 Purpose

The purpose of this Part is to prescribe:

- a) [Requirements](#)~~Guidelines and standards~~ for statements of actuarial opinion ~~that which~~ are to be submitted in accordance with [Section 223\(1a\)](#) of the Illinois Insurance Code [[215 ILCS 5/223\(1a\)](#)](~~Ill. Rev. Stat. 1991, ch. 73, par. 835(1a)(B)~~) and for memoranda in support ~~of that opinion; thereof.~~
- b) [Requirements applicable to the appointment of an appointed actuary; and](#)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from Section 223(1a)(B) of the Illinois Insurance Code.~~

- c) ~~Guidance as to the meaning of "adequacy of reserves" Requirements applicable to the appointment of an appointed actuary.~~

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

Section 1408.20 Scope

~~a) This Part shall apply to all life insurance companies and fraternal benefit societies doing business in this State and to all life insurance companies and fraternal benefit societies that which are authorized to reinsure life insurance, annuities or accident and health insurance business in this State. This Part shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the Director shall have the authority to specify specific methods of actuarial analysis and actuarial assumptions when, in the Director's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items. This Part shall be applicable to all annual statements filed with the office of the Director for years ending on or after December 31, 1992. Except with respect to companies which are exempted pursuant to Section 1408.50 of this Part, a statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Section 1408.70 and Illustration A of this Part, and a memorandum in support of that opinion thereof, in accordance with Section 1408.80 of this Part, shall be required each year. Any company so exempted must file a statement of actuarial opinion pursuant to Section 1408.60 of this Part. ~~b) Notwithstanding the foregoing, the Director may require any company otherwise exempt pursuant to Section 1408.50 of this Part to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with Sections 1408.70, Illustration A, and 1408.80 of this Part if, in the opinion of the Director, an asset adequacy analysis is necessary for the company.~~~~

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

Section 1408.30 Definitions

Actuarial Opinion means: ~~With respect to Sections 1408.70, 1408.80 or 1408.90 of this Part,~~ the opinion of an Appointed Actuary regarding the adequacy of the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

reserves and related actuarial items based on an asset adequacy ~~analysis~~ test in accordance with Section 1408.70 of this Part and with ~~applicable~~ presently accepted Actuarial Standards of Practice. ~~With respect to Section 1408.60 of this Part, the opinion of an Appointed Actuary regarding the calculation of reserves and related items, in accordance with Section 1408.60 of this Part and with those presently accepted Actuarial Standards which specifically relate to this opinion.~~

Actuarial Standards Board means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

Annual Statement means that statement required by Section 136 of the Illinois Insurance Code [215 ILCS 5/136] ~~(Ill. Rev. Stat. 1991, ch. 73, par. 748)~~ to be filed annually by the company with the office of the Director.

Appointed Actuary means any individual who is appointed or retained in accordance with the requirements set forth in Section 1408.40(c) of this Part to provide the actuarial opinion and supporting memorandum as required by Section 223(1a) of the Code.

Asset Adequacy Analysis means an analysis that meets the standards and other requirements referred to in Section 1408.40(d) of this Part. ~~It may take many forms, including, but not limited to, cash flow testing, sensitivity testing or applications of risk theory.~~

Code means the Illinois Insurance Code [215 ILCS 5] ~~(Ill. Rev. Stat. 1991, ch. 73, par. 835 et seq.)~~

Company means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this Part.

Department means the Department of Financial and Professional Regulation.

Director means the Director of the Department of Financial and Professional Regulation-Division of Insurance ~~Director of this State.~~

Division means the Illinois Department of Financial and Professional Regulation-Division of Insurance.

~~Non-Investment Grade Bonds are those designated as classes 3, 4, 5 or 6 by the~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~National Association of Insurance Commissioners (NAIC) Securities Valuation Office.~~

Qualified Actuary means ~~an~~any individual who meets the requirements set forth in Section 1408.40(b) of this Part.

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

Section 1408.40 General Requirements

- a) Submission of the Statement of Actuarial Opinion
 - 1) There is to be included on or attached to Page 1 of the annual statement the statement of an appointed actuary, entitled "Statement of Actuarial Opinion", setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with Section 1408.70 and Illustration A of this Part; ~~provided, however, that any company exempted pursuant to Section 1408.50 of this Part shall include on or attach to Page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with Section 1408.60 of this Part.~~
 - 2) ~~If in the previous year a company provided a statement of actuarial opinion in accordance with Section 1408.60 of this Part, and in the current year fails the exemption criteria of Sections 1408.50(c)(1), (2), or (3) of this Part, to again provide an actuarial opinion in accordance with Section 1408.60, the statement of actuarial opinion in accordance with Section 1408.70 and Illustration A of this Part shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with Section 1408.60 with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with Section 1408.70 and Illustration A.~~
 - 3) ~~In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the Director may accept the statement of actuarial opinion filed by such company with the insurance regulatory body of another state if the Director determines that the opinion reasonably meets the requirements applicable to a company domiciled in~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~this State.~~

24) Upon written request by the company, the Director may grant an extension of the date for submission of the statement of actuarial opinion.

b) Qualified Actuary

A "qualified actuary" is an individual who:

- 1) Is a member in good standing of the American Academy of Actuaries;
- 2) Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;
- 3) Is familiar with the valuation requirements applicable to life and health insurance companies;
- 4) Has not been found by the Director (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing, to have:
 - A) violated any provision of, or any obligation imposed by, the Illinois Insurance Code or other law in the course of his or her dealings as a qualified actuary;
 - B) been found guilty of fraudulent or dishonest practices;
 - C) demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;
 - D) submitted to the Director during the past ~~five (5)~~ years, pursuant to this Part, an actuarial opinion or memorandum that the Director rejected because it did not meet the provisions of this Part, including standards set by the Actuarial Standards Board; or
 - E) resigned or been removed as an actuary within the past ~~five (5)~~ years as a result of acts or omissions indicated in any adverse report of examination or as a result of failure to adhere to generally

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

accepted actuarial standards; and

- 5) Has not failed to notify the Director of any action taken by any Director of any other state similar to that under subsection (b)(4)-~~above~~.

c) Appointed Actuary

An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the Statement of Actuarial Opinion required by this Part; either directly or by the authority of the board of directors through an executive officer of the company ~~other than the qualified actuary~~. The company shall give the Director timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in ~~the such~~ notice that the person meets the requirements set forth in subsection (b) ~~above~~. Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the Director timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in subsection (b)-~~above~~. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

d) Standards for Asset Adequacy Analysis

The asset adequacy analysis required by this Part:

- 1) Shall conform to the Standards of Practice as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this Part, which standards are to form the basis of the statement of actuarial opinion in accordance with Section 1408.70 and Illustration A of this Part; and
- 2) Shall be based on methods of analysis deemed appropriate for such purposes by the Actuarial Standards Board.

e) Liabilities to be Covered

- 1) Under ~~authority of~~ Section 223(1a) of the Code, the statement of actuarial opinion shall apply to all in force business on the annual statement date, ~~whether directly issued or assumed~~, regardless of when or where issued, including reserves ~~of Exhibits 5, 6 and 7~~ and ~~claim liabilities in Exhibit 8~~,

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Part 1 and equivalent items in the separate account statement or statements.

- 2) If the appointed actuary determines, as the result of asset adequacy analysis, that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in Section 223(3)(b), (f) and (g), (5) and (7) of the Code, the company shall establish ~~the~~ additional reserve.
- 3) ~~For years ending prior to December 31, 1994, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:~~
 - A) ~~December 31, 1992, the additional reserve divided by three.~~
 - B) ~~December 31, 1993, two times the additional reserve divided by three.~~
- 34) Additional reserves established under subsection (e)(2) ~~and (3) above~~, and deemed not necessary in subsequent years, may be released. Any amounts released ~~shall~~ **must** be disclosed in the actuarial opinion for the applicable year. The release of such reserves shall not be deemed an adoption of a lower standard of valuation.

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

Section 1408.50 Required Opinions (Repealed)

- a) **General**
~~In accordance with Section 223(1a) of the Code, every company doing business in this State shall annually submit the opinion of an appointed actuary as provided by this Part. The type of opinion submitted shall be determined by the provisions set forth in this Section and shall be in accordance with the applicable provisions in this Part.~~
- b) **Company Categories**
~~For purposes of this Part, companies shall be classified as follows based on the admitted assets as of the end of the calendar year for which the actuarial opinion~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~is applicable:~~

- ~~1) Category A shall consist of those companies whose admitted assets do not exceed \$20 million;~~
- ~~2) Category B shall consist of those companies whose admitted assets exceed \$20 million but do not exceed \$100 million;~~
- ~~3) Category C shall consist of those companies whose admitted assets exceed \$100 million but do not exceed \$500 million; and~~
- ~~4) Category D shall consist of those companies whose admitted assets exceed \$500 million.~~

~~e) Exemption Eligibility Tests~~

- ~~1) Any Category A company that meets all of the following criteria shall be eligible for exemption from submitting a statement of actuarial opinion in accordance with Section 1408.70 and Illustration A of this Part for the year in which these criteria are met. The ratios in subsections (A), (B) and (C) below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.~~
 - ~~A) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .10.~~
 - ~~B) The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .30.~~
 - ~~C) The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50.~~
 - ~~D) The Examiner Team for the NAIC has neither designated the company as a first priority company in either of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, nor a second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the Director of~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~the state of domicile and the Director has so notified the Chair of the NAIC Life and Health Actuarial Task Force and the NAIC staff and support office.~~

- 2) ~~Any Category B company that meets all of the following criteria shall be eligible for exemption from submitting a statement of actuarial opinion in accordance with Section 1408.70 and Illustration A of this Part for the year in which the criteria are met. The ratios in subsections (A), (B) and (C) below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.~~
 - A) ~~The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .07;~~
 - B) ~~The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .40;~~
 - C) ~~The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50; and~~
 - D) ~~The Examiner Team for the NAIC has neither designated the company as a first priority company in either of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, nor a second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the Director of the state of domicile and the Director has so notified the Chair of the NAIC Life and Health Actuarial Task Force and the NAIC staff and support office.~~
- 3) ~~Any Category A or Category B company that meets all of the criteria set forth in subsections (c)(1) or (2) above, whichever is applicable, is exempted from submitting a statement of actuarial opinion in accordance with Section 1408.70 and Illustration A of this Part unless the Director specifically indicates to the company that the exemption is not to be taken.~~
- 4) ~~Any Category A or Category B company that is not exempted under subsection (c)(3) above shall be required to submit a statement of actuarial~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~opinion in accordance with Section 1408.70 and Illustration A of this Part for the year for which it is not exempt.~~

- 5) ~~Any Category C company that, after submitting an opinion in accordance with Section 1408.70 and Illustration A of this Part, meets all of the following criteria shall not be required, unless required in accordance with subsection (c)(6) below, to submit a statement of actuarial opinion in accordance with Section 1408.70 and Illustration A of this Part more frequently than every third year. Any Category C company which fails to meet all of the following criteria for any year shall submit a statement of actuarial opinion in accordance with Section 1408.70 and Illustration A of this Part for that year. The ratios in subsection (A), (B) or (C) below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.~~
- A) ~~The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .05;~~
- B) ~~The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .50;~~
- C) ~~The ratio of the book value of the non-investment grade bonds to the sum of the capital and surplus is less than .50; and~~
- D) ~~The Examiner Team for the NAIC has neither designated the company as a first priority company in either of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, nor a second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the Director of the state of domicile and the Director has so notified the Chair of the NAIC Life and Health Actuarial Task Force and the NAIC staff and support office.~~
- 6) ~~Any company which is not required by this Section to submit a statement of actuarial opinion in accordance with Section 1408.70 and Illustration A of this Part for any calendar year shall submit a statement of actuarial opinion in accordance with Section 1408.60 of this Part for that year~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~unless as provided by Section 1408.20(b) of this Part the Director requires a statement of actuarial opinion in accordance with Section 1408.70 and Illustration A of this Part.~~

- d) ~~Large Companies~~
~~Every Category D company shall submit a statement of actuarial opinion in accordance with Section 1408.70 and Illustration A of this Part.~~

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

Section 1408.60 Statement of Actuarial Opinion Not Including an Asset Adequacy Analysis
(Repealed)

- a) ~~General Description~~
~~The statement of actuarial opinion required by this Section shall consist of:~~
- ~~1) A paragraph identifying the appointed actuary and his or her qualifications;~~
 - ~~2) A regulatory authority paragraph stating that the company is exempt pursuant to Section 1408.50 of this Part from submitting a statement of actuarial opinion based on an asset adequacy analysis and that the opinion, which is not based on an asset adequacy analysis, is rendered in accordance with this Section;~~
 - ~~3) A scope paragraph identifying the subjects on which the opinion is to be expressed and describing the scope of the appointed actuary's work; and~~
 - ~~4) An opinion paragraph expressing the appointed actuary's opinion as required by Section 223(1a) of the Code.~~
- b) ~~Recommended Language~~
~~The following language is that which in typical circumstances would be included in a statement of actuarial opinion in accordance with this Section. Although language may be modified as needed to meet the circumstances of a particular case, and the appointed actuary should use language which clearly expresses his or her professional judgment, the opinion shall retain all pertinent aspects of the language provided in this Section.~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) ~~The opening paragraph should indicate the appointed actuary's relationship to the company.~~
 - A) ~~For a company actuary, the opening paragraph of the actuarial opinion should read: "I, [name of actuary], am [title] of [name of company] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in a letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering this opinion and am familiar with the valuation requirements applicable to life and health companies."~~
 - B) ~~For a consulting actuary, the opening paragraph of the actuarial opinion should read: "I, [name of actuary], a member of the American Academy of Actuaries, am associated with the firm of [insert name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in a letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering this opinion and am familiar with the valuation requirements applicable to life and health insurance companies."~~
- 2) ~~The regulatory authority paragraph should include a statement such as the following: "Said company is exempt, pursuant to 50 Ill. Adm. Code 1408.40 of the Illinois Department of Insurance rules from submitting a statement of actuarial opinion based on an asset adequacy analysis. This opinion, which is not based on an asset adequacy analysis, is rendered in accordance with Section 1408.60 of the Part."~~
- 3) ~~The scope paragraph should contain a sentence such as the following: "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below shown in the annual statement of the company, as prepared for filing with state regulatory officials as of December 31, [—]." This paragraph should also list items and amounts with respect to which the appointed actuary is expressing an opinion. The list should include but not be necessarily limited to:~~
 - A) ~~Aggregate reserve and deposit funds for policies and contracts~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- ~~included in Exhibit 8 of the annual statement;~~
- ~~B) Aggregate reserve and deposit funds for policies and contracts included in Exhibit 9 of the annual statement;~~
 - ~~C) Deposit funds, premiums, dividend and coupon accumulations and supplementary contracts not involving life contingencies included in Exhibit 10 of the annual statement; and~~
 - ~~D) Policy and contract claims—liability as of the end of the current year included in Exhibit 11, Part I of the annual statement.~~
- 4) ~~If the appointed actuary has examined the underlying records, the scope paragraph should also include a statement which reads: "My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic records and such tests of the actuarial calculations as I considered necessary."~~
- 5) ~~If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force prepared by the company or a third party, the scope paragraph should include a sentence such as one of the following:~~
- ~~A) "I have relied upon listings and summaries of policies and contracts and other liabilities in force prepared by [name and title of company officer certifying in force records] as certified in the attached statement. (See accompanying affidavit by a company officer.) In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."; or~~
 - ~~B) "I have relied upon [name of accounting firm] for the substantial accuracy of the in force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."~~
- 6) ~~The opinion paragraph should include a statement which reads: "In my~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~opinion the amounts carried in the balance sheet on account of the actuarial items identified above:~~

- ~~A) Are computed in accordance with those presently accepted actuarial standards which specifically relate to the opinion required under this Section;~~
- ~~B) Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;~~
- ~~C) Meet the requirements of the Insurance Law and regulations of the State of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;~~
- ~~D) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year end with any exceptions as noted below;~~
- ~~E) Include provision for all actuarial reserves and related statement items which ought to be established; and~~
- ~~F) The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Compliance Guidelines as promulgated by the Actuarial Standards Board, which guidelines form the basis of this statement of opinion."~~
- 7) ~~The concluding paragraph should document the eligibility for the company to submit an opinion as provided by this Section. It shall include the following:~~
 - ~~A) "This opinion is provided in accordance with 50 Ill. Adm. Code 1408.60. As such it does not include an opinion regarding the adequacy of reserves and related actuarial items when considered in light of the assets which support them.~~
 - B) Eligibility is confirmed as follows:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- i) ~~The ratio of the sum of capital and surplus to the sum of cash and invested assets is [insert amount], which equals or exceeds the applicable criterion based on the admitted assets of the company (50 Ill. Adm. Code).~~
- ii) ~~The ratio of the sum of the reserves and liabilities for annuities and deposits to the excess of the total admitted assets is [insert amount], which is less than the applicable criteria based on the admitted assets of the company (Section 1408.50).~~
- iii) ~~The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is [insert amount], which is less than the applicable criteria of .50.~~
- iv) ~~To my knowledge, the NAIC Examiner Team has neither designated the company as a first priority company in either of the two (2) calendar years preceding the calendar year for which this actuarial opinion is applicable, nor a second priority company in each of the two (2) calendar years preceding the calendar year for which this actuarial opinion is applicable or the company has resolved the first or second priority status to the satisfaction of the Director of the state of domicile.~~
- v) ~~To my knowledge there is not a specific request from any Director requiring an asset adequacy analysis opinion.~~

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary"

- 8) ~~If there has been any change in the actuarial assumptions from those previously employed, that change should be described in the annual statement or in a paragraph of the statement of actuarial opinion, and the~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~reference to consistency in subsection (b)(6)(D) above to consistency should read: "... with the exception of the change described in Page [] of the annual statement (or in the preceding paragraph)." The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this subsection.~~

- 9) ~~If the appointed actuary is unable to form an opinion, he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.~~
- 10) ~~If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following:~~

~~"I [name of officer], [title] of [name and address of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, [], prepared for and submitted to [name of appointed actuary], were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.~~

~~_____
Signature of the Officer of the Company or
Accounting Firm~~

~~_____
Address of the Officer of the Company or
Accounting Firm~~

~~_____
Telephone Number of the Officer of the
Company or Accounting Firm"~~

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1408.80 Description of Actuarial Memorandum, Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary

- a) General
- 1) In accordance with Section 223(1a) of the Code, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves ~~under the opinion~~. The memorandum shall be made available for examination by the Director upon his or her request, but shall be returned to the company ~~or destroyed~~ after ~~the such~~ examination and shall not be considered a record of the ~~Division~~Insurance Department or subject to automatic filing with the Director.
 - 2) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of Section 1408.40(b) of this Part, with respect to the areas covered in ~~those such~~ memoranda, and so state in ~~his or her their~~ memoranda.
 - 3) If the Director requests a memorandum and no such memorandum exists, or if the Director finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this Part, the Director may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The expense of the independent review shall be paid by the company but shall be directed and controlled by the Director.
 - 4) The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company, and the work papers and documentation of the reviewing actuary shall be retained by the Director; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the Director and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the Director pursuant to Section 223(1a)(A)(11) of the Code. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

prior memorandum or opinion for the insurer pursuant to this Part for the current year or any one of the preceding ~~three (3)~~ years.

5) In accordance with Section 223(1a) of the Code, when an actuarial opinion based on asset adequacy analysis is provided, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in subsection (c). Companies domiciled in Illinois shall submit the regulatory asset adequacy issues summary no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. Illinois foreign companies are not required to submit the regulatory asset adequacy issues summary annually, however, the summary shall be made available for examination by the Director upon request. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

b) Details of the Memorandum Section Documenting Asset Adequacy Analysis (Section 1408.70 of this Part)

When an actuarial opinion based on asset adequacy analysis~~under Section 1408.70 and Illustration A of this Part~~ is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in Section 1408.40(d) of this Part and any additional standards under this Part. It shall specify:

- 1) For reserves:
 - A) Product descriptions, including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;
 - B) Source of liability in force;
 - C) Reserve method and basis;
 - D) Investment reserves; ~~and~~
 - E) Reinsurance arrangements;-
 - F) Identification of any explicit or implied guarantees made by the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis; and

G) Documentation of assumptions. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions. Documentation of assumptions shall test reserves for the following:

- i) Lapse rates (both base and excess);
- ii) Interest crediting rate strategy;
- iii) Mortality;
- iv) Policyholder dividend strategy;
- v) Competitor or market interest rate;
- vi) Annuitization rates;
- vii) Commissions and expenses; and
- viii) Morbidity.

2) For assets:

- A) Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;
- B) Investment and disinvestment assumptions;
- C) Source of asset data;
- D) Asset valuation bases; and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- E) Documentation of assumptions. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions. Documentation of assumptions shall be made for: Disclosure of the methodology for allocating assets, the specific blocks of business and the AVR.
- i) Default costs;
 - ii) Bond call function;
 - iii) Mortgage prepayment function;
 - iv) Determining market value for assets sold due to disinvestment strategy; and
 - v) Determining yield on assets acquired through the investment strategy.
- 3) For the analysisAnalysis basis:
- A) Methodology;
 - B) Rationale for inclusion or/ exclusion of different blocks of business and how pertinent risks were analyzed;
 - C) Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of "materiality" that was used in determining how rigorously to analyze different blocks of business);
 - D) Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice); and
 - E) Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis. Effect of federal income taxes, reinsurance and other relevant

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~factors.~~

- 4) Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis.~~Summary of Results~~
 - 5) Summary of results.~~Conclusion(s)~~
 - 6) Conclusions.
- c) Details of the Regulatory Asset Adequacy Issues Summary
- 1) The regulatory asset adequacy issues summary shall include:
 - A) Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date that, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force. Illinois domestic companies shall also include a description of each of the scenarios required by subsection (f);
 - B) The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;
 - C) The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion, but were not subject to analysis for the current opinion;
 - D) Comments on any interim results that may be of significant concern to the appointed actuary;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) For the purpose of performing the asset adequacy analysis required by this Part, the qualified actuary is expected to follow standards adopted by the Actuarial Standards Board; nevertheless, the appointed actuary must consider in the analysis the effect of at least the following interest rate scenarios:
 - A) Level with no deviation;
 - B) Uniformly increasing over 10 years at a half percent per year, and then level;
 - C) Uniformly increasing at one percent per year over 5 years, and then uniformly decreasing at one percent per year to the original level at the end of 10 years, and then level;
 - D) An immediate increase of 3%, and then level;
 - E) Uniformly decreasing over 10 years at a half percent per year, and then level;
 - F) Uniformly decreasing at one percent per year over 5 years, and then uniformly increasing at one percent per year to the original level at the end of 10 years, and then level; and
 - G) An immediate decrease of 3%, and then level.
- 2) For these and other scenarios that may be used, projected interest rates for a 5 year Treasury Note need not be reduced beyond the point where the 5 year Treasury Note yield would be at 50% of its initial level.
- 3) The beginning interest rates may be based on interest rates for new investments as of the valuation date, similar to recent investments allocated to support the product being tested, or may be based on an outside index, such as Treasury yields, of assets of the appropriate length on a date close to the valuation date. The method used to determine the beginning yield curve and associated interest rates shall be specifically defined. The beginning yield curve and associated interest rates shall be consistent for all interest rate scenarios.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

g) Documentation

The appointed actuary shall retain on file, for at least 7 years, documentation sufficient to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

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

Section 1408.90 Additional Considerations for Analysis (Repealed)a) Aggregation

~~For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with Section 1408.70 and Illustration A of this Part, reserves and assets may be aggregated by either of the following methods:~~

- ~~1) Aggregate the reserves and related actuarial items, and the supporting assets, for different products or lines of business, before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from the aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated.~~
- ~~2) Aggregate the results of asset adequacy analysis of one or more products or lines of business, the reserves for which prove through analysis to be redundant, with the results of one or more products or lines of business, the reserves for which prove through analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated:
 - ~~A) Are developed using consistent economic scenarios, or~~
 - ~~B) Are subject to mutually independent risks, i.e., the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves.~~~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~In the event of any aggregation, the actuary must disclose in his or her opinion that such reserves were aggregated on the basis of methods in subsection (1), (2)(A) or (2)(B) above, whichever is applicable, and describe the aggregation in the supporting memorandum.~~

b) ~~Selection of Assets for Analysis~~

~~The appointed actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereafter called "specified reserves." A particular asset or portion thereof supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in subsection (c) below. If the method of asset allocation is not consistent from year to year, the extent of its inconsistency shall be described in the supporting memorandum.~~

e) ~~Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve~~

~~An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, must be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserves (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.~~

~~The amount of the assets used for the AVR must be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum, as well as the method used for selecting particular assets or allocated portions of assets, must be disclosed in the memorandum.~~

d) ~~Required Interest Scenarios~~

1) ~~For the purpose of performing the asset adequacy analysis required by this Part, the qualified actuary is expected to follow standards adopted by the Actuarial Standards Board; nevertheless, the appointed actuary must consider in the analysis the effect of at least the following interest rate scenarios:~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- A) ~~Level with no deviation;~~
 - B) ~~Uniformly increasing over ten (10) years at a half percent per year and then level;~~
 - C) ~~Uniformly increasing at one percent per year over five (5) years and then uniformly decreasing at one percent per year to the original level at the end of ten (10) years and then level;~~
 - D) ~~An immediate increase of three percent (3%) and then level;~~
 - E) ~~Uniformly decreasing over ten (10) years at a half percent per year and then level;~~
 - F) ~~Uniformly decreasing at one percent per year over five (5) years and then uniformly increasing at one percent per year to the original level at the end of ten (10) years and then level; and~~
 - G) ~~An immediate decrease of three percent (3%) and then level.~~
- 2) ~~For these and other scenarios which may be used, projected interest rates for a five (5) year Treasury Note need not be reduced beyond the point where such five (5) year Treasury Note yield would be at fifty percent (50%) of its initial level.~~
 - 3) ~~The beginning interest rates may be based on interest rates for new investments as of the valuation date similar to recent investments allocated to support the product being tested or may be based on an outside index, such as Treasury yields, of assets of the appropriate length on a date close to the valuation date. The method used to determine the beginning yield curve and associated interest rates shall be specifically defined. The beginning yield curve and associated interest rates shall be consistent for all interest rate scenarios.~~
- e) ~~Documentation~~
~~The appointed actuary shall retain on file, for at least seven (7) years, documentation sufficient to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1408. ILLUSTRATION A Statement of Actuarial Opinion Based on Asset Adequacy Analysis Format

- a) General Description
The statement of actuarial opinion submitted in accordance with Section 1408.70 of this Part shall consist of:
- 1) A paragraph identifying the appointed actuary and his or her qualifications (subsection (b)(1) ~~below~~);
 - 2) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items ~~that~~which have been analyzed for asset adequacy and the method of analysis (see subsection (b)(2) ~~below~~), and identifying the reserves and related actuarial items covered by the opinion ~~that~~which have not been so analyzed;
 - 3) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions (e.g., anticipated cash flows from currently owned assets), including variation in cash flows according to economic scenarios (see subsection (b)(3) ~~below~~), supported by a statement of each such expert in the form prescribed by subsection (e) ~~below~~; ~~and~~
 - 4) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see subsection (b)(6) ~~below~~); ~~and~~.
 - 5) One or more additional paragraphs, ~~will be needed~~ in individual company cases as follows:
 - A) If the appointed actuary considers it necessary to state a qualification of his or her opinion;
 - ~~B) If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- ~~C)~~ ~~If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR) or other mandatory or voluntary statement reserves for asset adequacy analysis;~~
- ~~BD)~~ If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;
- ~~CE)~~ If the appointed actuary must disclose whether additional reserves as of the prior opinion date are released as of this opinion date, and the extent of the release; or
- ~~DF)~~ If the appointed actuary chooses to add a paragraph briefly describing the assumptions thatwhich form the basis for the actuarial opinion.

b) Recommended Language

The following paragraphs are to be included in the statement of actuarial opinion in accordance with Section 1408.70 of this Part. The language is that which, in typical circumstances, should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language thatwhich clearly expresses his or her professional judgment. However, in any event, the opinion shall retain all pertinent aspects of the language provided in this subsection.

1) Opening Paragraph

The opening paragraph should generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

- A) For a company actuary, the opening paragraph of the actuarial opinion should include a statement such as read: "I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in a letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

to life and health insurance companies."

- B) For a consulting actuary, the opening paragraph should [include a statement such as read](#): "I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in a letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

- 2) [Scope Paragraph](#)
The scope paragraph should include a statement [such as the following, accompanied by the appropriate table of tested amounts](#)~~which reads~~: "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, [2019](#)[]. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis."

[For companies filing a Life Annual Financial Statement, the following table shall be used:](#)

Asset Adequacy Tested Amounts <u>–</u> Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves ^(a) (2)	Analysis Method ^(b)	Other Amount (3)	Total Amount (1) + (2) + (3) (4)
Exhibit 58					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

D Accidental Death Benefit					
E Disability-Active					
F Disability-Disabled					
G Miscellaneous					
Total (Exhibit 58 , Item 1, Page 3)					
Exhibit 69					
A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 69 , Item 2, Page 3)					
Exhibit 710					
A Premiums and Other Deposit Funds (Column 6, Line 14)					
1.1 Policyholder Premiums (Page 3, Line 10.1)					
B1.2 Guaranteed Interest Contracts (Column 2, Line 14)(Page 3, Line 10.2)					
C1.3 Annuities Certain (Column 3, Line 14) Other Contract Deposit Funds Page 3, Line 10.3)					

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

D2 <u>D3</u> Supplemental Supplementary Contracts (<u>Column 4, Line 14</u>) Not Involving Life Contingencies (Page 3, Line 3)					
E3 Dividend and Coupon Accumulations or Refunds (<u>Column 5, Line 14</u>) (Page 3, Line 5)					
Total Exhibit 740 <u>(Column 1, Line 14)</u>					
Exhibit 8,11 Part 1					
A1 Life (Page 3, Line 4.1)					
B2 Health (Page 3, Line 4.2)					
Total Exhibit 811, Part 1					
Separate Accounts (Page 3 <u>of the Annual Statement of the Separate Accounts, Lines 1, 2, 3.1, 3.2, 3.3, Line 27</u>)					
TOTAL RESERVES					
IMR (<u>General Account, Page _____, Line _____</u>)					
(<u>Separate Accounts, Page _____, Line _____</u>)					
AVR (Page _____, Line _____)					(c)
<u>Net Deferred and Uncollected Premium</u>					

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- (a) **Note:** The additional actuarial reserves are the reserves established under Section 1408.40(e)(2).
- (b) **Note:** The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in Section 1408.40(d)-~~of this Part~~, by means of symbols ~~that which~~-should be defined in footnotes to the table.
- (c) **Note:** Allocated amount of Asset Valuation Reserve (AVR).

Or

For companies filing a Health Annual Financial Statement, the following table shall be used:

<u>Asset Adequacy Tested Amounts – Reserves and Liabilities</u>					
<u>Statement Item</u>	<u>Formula Reserves</u> <u>(1)</u>	<u>Additional Actuarial Reserves</u> ^(a) <u>(2)</u>	<u>Analysis Method</u> ^(b)	<u>Other Amount</u> <u>(3)</u>	<u>Total Amount</u> <u>(1) + (2) + (3)</u> <u>(4)</u>
<u>A Claims Unpaid (Page 3, Line 1)</u>					
<u>B Accrued Medical Incentive Pool and Bonus Payments (Page 3, Line 2)</u>					
<u>C Unpaid Claims Adjustment Expenses (Page 3, Line 3)</u>					
<u>D Aggregate Health Policy Reserves (Page 3, Line 4)</u>					
<u>E Aggregate Life Policy Reserves (Page 3, Line 5)</u>					

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

<u>F</u> Total Supplemental Exhibit 7					
<u>G</u> Aggregate Health Claim Reserves (Page 3, Line 7)					
<u>H</u> Experience Rated Refunds					
<u>I</u> Actuarial Liabilities included in Page 3, Line 21					
<u>TOTAL RESERVES</u>					
Uncollected Premiums and Agents' Balances in the Course of Collection (Page 2, Line 13.1, Column 3)					

(a) [Note:](#) The additional actuarial reserves are the reserves established under Section 1408.40(e)(2).

(b) [Note:](#) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in Section 1408.40(d), by means of symbols that should be defined in footnotes to the table.

3) [Reliance Paragraph](#)

A) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as: "[I have relied on \[name\], \[title\] for \[e.g., "anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios" or "certain critical aspects of the analysis performed in conjunction with forming my opinion"\], as certified in the attached statement. I have reviewed the information relied upon for reasonableness." A statement of reliance on other experts should be accompanied by a statement by each of the experts in the form](#)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

prescribed by subsection (e). the following:

- A) ~~"I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and, as certified in the attached statement, . . ."~~ or
- B) ~~"I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."~~
- B4) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should ~~also~~ include a statement such as: "My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement."
- C5) If the appointed actuary has not examined the underlying records, but has relied upon data (e.g., listings and summaries of policies in force and/or asset records prepared by the company) ~~or a third party~~, the reliance paragraph should include a statementsentence such as: "In forming my opinion on [specify types of reserves], I relied upon data prepared by [name and title of company officer certifying in force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects, my examination included review of the actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary." The reliance paragraph shall be accompanied by a statement by each person relied upon in the form prescribed by subsection (e).
- A) ~~"I have relied upon listings and summaries [of policies and contracts, of asset records] prepared by [name and title of company~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~officer certifying in force records] as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary." or~~

B) ~~"I have relied upon [name of accounting firm] for the substantial accuracy of the in force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."~~

46) Opinion Paragraph

The opinion paragraph should include a statement ~~such as~~ which reads:

- A) "In my opinion the reserves and related actuarial values concerning the statement items identified above:
- i) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;
 - ii) Are based on actuarial assumptions ~~that~~ which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;
 - iii) Meet the requirements of the Insurance Law and regulation of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;
 - iv) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and
 - v) Include provision for all actuarial reserves and related statement items ~~that which~~ ought to be established."

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- B) "The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items, including, but not limited to, the investment earnings on ~~thesueh~~ assets, and the considerations anticipated to be received and retained under ~~thesueh~~ policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company."
[This language may be omitted for an opinion filed on behalf of a company doing business only in this State and in no other state. The Director may require any company otherwise exempt to submit a statement of actuarial opinion, and to prepare a memorandum in support of that opinion, based on asset adequacy if, in the opinion of the Director, an asset adequacy analysis is necessary.](#)
- C) "The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion."
- i) "This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion ~~that which~~ should be considered in reviewing this opinion"; or
- ii) "The following material change(s) ~~that which~~ occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion:" (Describe the change or changes.)
- D) "The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Signature of Appointed Actuary

Printed Name of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary

E-mail Address of Appointed Actuary

Date"

- c) Assumptions for New Issues
The adoption for new issues or new claims or other new liabilities of an actuarial assumption ~~that~~which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of [Section 1408.70 and this Illustration A subsection \(b\)\(6\) above](#).
- d) Adverse Opinions
If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then he or she shall issue an adverse or qualified actuarial opinion explicitly stating the ~~reasons~~ reason(s) for ~~thesueh~~ opinion. This statement should follow the scope paragraph and precede the opinion paragraph.
- e) Reliance on ~~Information~~Data Furnished by Other Persons
If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed. If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force and/or asset-oriented information, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following:~~

~~"I [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, [—], and other liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.~~

~~_____
Signature of the Officer of the Company or
Accounting Firm~~

~~_____
Address of the Officer of the Company or
Accounting Firm~~

~~_____
Telephone Number of the Officer of the
Company or Accounting Firm"~~

and/or

~~"I, [name of officer], [title] of [name of company, accounting firm, or security analyst], hereby affirm that the listings, summaries and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset-oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.~~

~~_____
Signature of the Officer of the Company,
Accounting Firm or the Security Analyst~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~Address of the Officer of the Company,
Accounting Firm or the Security Analyst~~

~~Telephone Number of the Officer of the Company,
Accounting Firm or the Security Analyst"~~

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Insurance Data Reporting Requirements
- 2) Code Citation: 50 Ill. Adm. Code 4203
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
4203.300	New Section
4203.310	New Section
- 4) Statutory Authority: Implementing Article XLII and authorized by Section 1204 of the Illinois Insurance Code [215 ILCS 5/Art. XLII]. Also implementing and authorized by the Response Action Contractor Indemnification Act [415 ILCS 100]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking involves the results of a marketplace review to determine if specific insurance products are available to cover individuals who contract with the State of Illinois to performing clean-up of hazardous waste and other contaminants.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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:

Eve Blackwell-Lewis
Senior Staff Attorney
Department of Financial and

Craig Cellini
Rules Coordinator
Department of Financial and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Professional Regulation Division of Insurance 320 West Washington, 4 th Floor Springfield, Illinois 62767-0001 217/782-2867	or	Professional Regulation 320 West Washington 3 rd Floor Springfield, Illinois 62767-0001 217/785-0813
--	----	---

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: The availability of occurrence coverage may have an impact on contractors that serve the State in response action situations.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Insurance
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER vv: INSURANCE COST CONTAINMENT

PART 4203

INSURANCE DATA REPORTING REQUIREMENTS

SUBPART A: COST CONTAINMENT REPORTING

Section

4203.10	Applicability
4203.20	Purpose and Scope
4203.30	Data Collection Procedures
4203.40	General Submission Guidelines
4203.50	Required Data Types (Lines, Classes, and Coverage's)
4203.60	Line Item Matrix For Cost Containment Reporting
4203.70	Coding Conventions For Other Liability, Medical Malpractice, Earthquake, Commercial Auto Liability, Business Owners Packages, and Excess Insurance
4203.80	Coding Conventions for Homeowner and Residential Fire Insurance
4203.90	Coding Conventions for Private Passenger Auto Liability Insurance (Excluding PIP)
4203.100	Coding Conventions for Private Passenger Auto Physical Damage
4203.110	Record Layout for the Four Formats

SUBPART B: MEDICAL MALPRACTICE REPORTING

Section

4203.200	Applicability
4203.210	Purpose and Scope
4203.220	Definitions
4203.230	Reports

SUBPART C: MARKET SURVEY FOR OCCURRENCE INSURANCE
COVERAGE OF STATE RESPONSE ACTION CONTRACTORSSection

<u>4203.300</u>	<u>Purpose</u>
<u>4203.310</u>	<u>Declaration</u>

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

4203.APPENDIX A Filing Requirements for Medical Malpractice Reporting

4203.APPENDIX B Guidelines for Submission of Medical Malpractice Reporting

AUTHORITY: Implementing Article XLII and authorized by Section 1204 of the Illinois Insurance Code [215 ILCS 5/Art. XLII]. Also Implementing and authorized by the Response Action Contractor Indemnification Act [415 ILCS 100].

SOURCE: Adopted at 22 Ill. Reg. 4853, effective March 3, 1998; amended at 31 Ill. Reg. 2287, effective January 22, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART C: MARKET SURVEY FOR OCCURRENCE INSURANCE
COVERAGE OF STATE RESPONSE ACTION CONTRACTORS

Section 4203.300 Purpose

The purpose of this Subpart is to demonstrate the existence of an occurrence liability insurance market within Illinois.

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

Section 4203.310 Declaration

The Director has found that a market exists, as of June 1, 2007, where one or more insurers are making liability insurance coverage available to response action contractors.

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Promotion Act Programs

2) Code Citation: 14 Ill. Adm. Code 510

3) Section Numbers: Adopted Action:

510.10	Amend
510.20	Amend
510.30	Amend
510.40	Amend
510.50	Amend
510.60	Amend
510.70	Repeal
510.80	Amend
510.110	Amend
510.120	Amend
510.130	Amend
510.140	Amend
510.150	Amend
510.160	Amend
510.220	Amend
510.240	Amend
510.250	Amend
510.260	Amend
510.310	Amend
510.320	Amend
510.330	Amend
510.340	Amend
510.350	Amend
510.360	Amend

| 4) Statutory Authority: Implementing and authorized by the Illinois Promotion Act [20 ILCS 665]

5) Effective Date of Amendments: July 29, 2008

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 6966; May 2, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Grammatical and stylistic changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: General clean-up of existing rules: adds definitions; deletes obsolete rules; and updates programs to keep up with technology.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
620 East Adams Street
Springfield, IL 62701

217/557-1820

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY
~~DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS~~

PART 510

ILLINOIS PROMOTION ACT PROGRAMS

SUBPART A: GENERAL PROGRAM PROVISIONS

Section	
510.10	Authority
510.20	Definitions
510.30	Form of Application
510.40	Application Procedures
510.50	Grant Agreement
510.60	Computation of Time
510.70	Severability (<u>Repealed</u>)
510.80	Administrative Requirements for Grants

SUBPART B: TOURISM MARKETING PARTNERSHIP PROGRAM

Section	
510.110	Purpose
510.120	Eligible Uses of Grant Funds
510.130	Allocation of Appropriations
510.140	Funding Limitation
510.150	Matching Funds
510.160	Evaluation and Selection Process

SUBPART C: TOURISM ATTRACTION DEVELOPMENT
GRANT AND LOAN PROGRAM

Section	
510.210	Purpose
510.220	Eligible Uses of Grant and Loan Funds
510.230	Allocation of Appropriations
510.240	Funding Limitation
510.250	Matching Funds

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 510.260 Evaluation and Selection Process
510.270 Administrative Requirements for Loans

SUBPART D: TOURISM PRIVATE SECTOR GRANT PROGRAM

- Section
510.310 Purpose
510.320 Eligible Uses of Grant Funds
510.330 Allocation of Appropriations
510.340 Funding Limitation
510.350 Matching Funds
510.360 Evaluation and Selection Process

AUTHORITY: Implementing and authorized by the Illinois Promotion Act. [20 ILCS 665]

SOURCE: Filed December 30, 1977; codified at 6 Ill. Reg. 15011; emergency amendment at 14 Ill. Reg. 13298, effective August 6, 1990, for a maximum of 150 days; emergency expired January 3, 1991; amended at 15 Ill. Reg. 2673, effective February 1, 1991; amended at 15 Ill. Reg. 8848, effective June 10, 1991; emergency amendment at 17 Ill. Reg. 22096, effective December 13, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5813, effective April 1, 1994; amended at 18 Ill. Reg. 8387, effective May 23, 1994; amended at 20 Ill. Reg. 5064, effective March 11, 1996; amended at 22 Ill. Reg. 10394, effective June 1, 1998; emergency amendment at 24 Ill. Reg. 6718, effective April 17, 2000, for a maximum of 150 days; emergency expired September 13, 2000; amended at 24 Ill. Reg. 15044, effective September 27, 2000; emergency amendment at 24 Ill. Reg. 18834, effective December 8, 2000, for a maximum of 150 days; emergency expired May 6, 2001; old Part repealed and new Part adopted at 25 Ill. Reg. 8993, effective July 1, 2001; amended at 32 Ill. Reg. 13443, effective July 29, 2008.

SUBPART A: GENERAL PROGRAM PROVISIONS

Section 510.10 Authority

The Illinois [Department of Commerce and Economic Opportunity](#)~~Department of Commerce and Community Affairs~~, having been created pursuant to Executive Order No. 3 (effective 1979), has been empowered to administer the Illinois Promotion Act [20 ILCS 665].

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.20 Definitions

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

The following definitions are applicable to this Part:

"Act": means the Illinois Promotion Act [20 ILCS 665].

~~"Agreement": means a written document executed between the Grantee and the Department defining the rights and obligations with respect to the Project.~~

"Applicant": means an organization, unit of local government or other eligible entity, as defined in Section 510.110, 510.210 or 510.310 of this Part, submitting a written request for ~~Program~~~~program~~ funds appropriated under the Act.

"Application": means a written request for ~~grant~~~~program~~ funds containing the required information and attachments.

~~"Borrower": means an Illinois county, municipality, not for profit organization, local promotion group or for profit business that has been awarded a loan in accordance with the Act.~~

"Bureau of Tourism": means the division of the Department that has the delegated authority to perform all administrative functions relating to the Act.

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

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

"Economic Impact": means the direct financial result of visitor spending at a tourism destination, attraction or event.

"Eligible Project": means a project that is eligible for funding as defined in Sections 510.120, 510.220, and 510.320 of this Part.

"Fiscal Year": means July 1 through June 30, the ~~Fiscal Year~~~~fiscal year~~ of the State of Illinois.

"Grant Agreement": means a written document executed between the Grantee

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

and the Department setting forth the obligations of the Parties, describing the purpose of the grant, identifying the manner in which Grant Funds will be paid and expended, specifying the grant terms during which Grant Funds may be expended, and requiring unspent Grant Funds to be returned to the State.

"Grant Amount" or "Grant Funds": means a monetary~~an~~ amount that the Department shall award~~pay~~ to a Grantee for its expenditure~~use~~ on an Eligible Project~~eligible project~~.

"Grantee": means an organization, unit of local government or other eligible entity, as defined in Section 510.110, 510.210, or 510.310 of this Part, eligible to receive Program~~program~~ funds appropriated under the Act.

"Ineligible Project": means a project that is ineligible for funding as defined in Sections 510.120, 510.220, and 510.320 of this Part.

"In Kind Contribution": means noncash contributions necessary to complete the Project for which the cash value is easily documented (i.e., donated labor, equipment, supplies and materials), and that are eligible grant and match line-item expenditures identified in the budget of the Grant Agreement.

"Local Promotion Group": means any non-profit corporation, organization, association, agency or committee thereof formed for the primary purpose of publicizing, promoting, advertising or otherwise encouraging the development of tourism in any Municipality~~municipality~~, county or region of Illinois. [20 ILCS 665/3(b)]~~as described in Section 3(b) of the Act.~~

"Matching Funds": means the portion of the Total Project Cost~~total project cost~~ that is provided by the Grantee. Matching Funds shall,~~which is~~ not be funds from other Department funded grant programs or used to match any other grant, and are~~is~~ necessary and irrevocably obligated to the Project.

"Municipality": means "Municipality~~municipality~~" as defined in Section 1-1-2(1) of the Illinois Municipal Code [65 ILCS 5/1-1-2(1)]. [20 ILCS 665/3(d)]

"Private Sector": means any non-governmental entity.

"Program": means the Tourism Marketing Partnership Program, Tourism Attraction Development Loan and Grant Program, or the Tourism Private Sector

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

Grant Program described in this Part.

"Project": means the activity or program of activities, described by the Applicant in the Application and approved by the Department, for which a grant is awarded.

"Supporting Visitor Services": means accommodations, restaurants, shopping, and recreational and cultural activities located within a reasonable distance from the location of the Tourism Attraction, Tourism Destination or Tourism Event being promoted.

"Total Project Cost": means all necessary and reasonable costs related to the completion of the Project as identified in the budget of the Grant Agreement~~grant agreement~~.

"Tourism": means travel 50 miles or more one-way, or an overnight trip outside of a person's normal routine. [20 ILCS 665/3(e)]

"Tourism Attraction": means fishing and hunting areas, State parks, historical/cultural sites, areas of historic or scenic interest, museums, recreation areas, botanical gardens, theme/amusement parks, interpretive programs and other facilities or businesses that attract or serve visitors that are open to the public for a minimum of 100 days per year (if the Tourism Attraction~~tourism attraction~~ is entirely event driven, then it shall be open for a minimum of 200 hours per year), and are marketed and promoted to visitors from more than 50 miles away.

"Tourism Destination": means a city, town or other area the economy of which is dependent on revenues accruing from tourism.

"Tourism Event": means an event, such as a major convention, trade show, sporting activity, or festival, with potential to attract visitors from outside a 50-mile radius and to produce significantly increased Economic Impact~~economic impact~~ for the State of Illinois through overnight stays.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.30 Form of Application

- a) All communications relating to the Application procedures defined in Section 510.40 shall be sent to the Illinois Bureau of Tourism of the Illinois Department

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

~~of Commerce and Economic Opportunity~~~~Department of Commerce and Community Affairs~~, located at 620 East Adams, Springfield, Illinois 62701.

- b) An Application shall be typed or computer generated using the current approved format provided by the Department.
- c) An Application shall contain ~~one~~ original and ~~five~~~~the designated number of~~ copies ~~as required by the Department~~.
- d) An Application shall include information and supporting documents that will enable the ~~Department to evaluate the~~ Application ~~to be evaluated~~ based on the criteria described in Sections 510.160, 510.260 and 510.360 of this Part.
- e) Each Application, including supporting documents and attachments, shall be contained under a single cover.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.40 Application Procedures

- a) Upon request, the Department shall supply interested entities with Application guidelines and instructions that describe the ~~Program~~~~program~~ rules, required information, and attachments. Applications under these ~~Programs~~~~programs~~ will be accepted on an ongoing basis beginning May 1, with grants awarded July 1 through the end of each ~~Fiscal Year~~~~fiscal year~~, or until all appropriated funds have been awarded. ~~Applicants should submit their Application at least~~~~Applications must be received a minimum of~~ 60 days prior to the ~~Project~~~~project~~ initiation date in order to be considered for funding. However, depending on the purpose of the grant, the need for the grant, the Economic Impact to the State, and the timeliness of the event, it is within the Department's discretion to waive this 60 day period.
- b) An Application will be considered delivered and submitted on the date it is postmarked or hand delivered to the Bureau of Tourism at the Department's Springfield address.
- c) Within ~~30~~~~15~~ business days after the Department receives the Application, the ~~program manager~~~~Program Manager~~ shall notify the Applicant whether, after a brief review, the Application and attachments, if any, are complete. This notice is not in any way an acknowledgment by the Department as to the adequacy of the

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

substance of the Application. If the Application and attachments are incomplete, the Applicant shall be notified of the deficiencies. The Applicant will then have 2015 business days to cure any deficiencies. In the event the Applicant fails to cure all deficiencies within the 2015 business days, the Application shall be considered null and void and returned to the Applicant.

- d) Within 9060 days from the date an Application is determined to be complete, the program manager~~Program Manager~~ shall notify the Applicant whether~~that~~ the Application has been approved or rejected. If the Application has been rejected, the notification shall state the reasons for that determination.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.50 Grant Agreement

- a) When an Application has been approved for funding~~a grant has been awarded~~, the Grantee and the Department shall execute a Grant Agreement~~an agreement~~. ~~The agreement shall be executed between the Grantee and the Director of the Department or the Director's designee on behalf of the Department. If the~~The Project ~~is~~shall not be initiated and costs ~~are~~shall not be incurred ~~before~~prior to the time the Department approves the Application, the Department bears no responsibility for those costs in the event the Application is denied or the grant is funded at less than the amount requested~~in order for the costs to be eligible for funding~~.
- b) The Grant Agreement~~agreement~~ shall contain substantive provisions, including, but not limited to, the following:
- 1) A recitation of legal authority pursuant to which the agreement is made;
 - 2) An identification of the Project scope and schedule, and the work or services to be performed or conducted by the Grantee;
 - 3) An identification of the Grant Amount~~grant amount~~;
 - 4) The conditions and manner in which the Department shall pay the Grant Amount~~grant amount~~ subject at all times to annual appropriation by the Illinois General Assembly;

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 5) The Grantee agrees to provide and irrevocable promise of the Grantee to pay the applicable Matching Funds~~local match~~ of the Total Project Cost;
- 6) The Grantee agrees~~A promise by the Grantee~~ not to assign or transfer any of the rights, duties or obligations of the Grantee without the written consent of the Department;
- 7) The Grantee agrees~~A promise by the Grantee~~ not to amend the Project scope or budget~~agreement~~ without the Department's written consent ~~of the Department~~. Failure to do so will result in a cost disallowance. The Project must be completed by the end~~completion~~ date stated in~~of~~ the Grant Agreement~~notice of grant award~~ unless a written modification request for an extension of time is submitted before the grant end date and approved by the Department~~no later than 30 days prior to the award completion date~~;
- 8) The Grantee agrees to~~A covenant that the Grantee shall~~ expend the Grant Amount~~grant amount~~ and any accrued interest only for the purposes of the Project as stated in the Grant Agreement~~grant agreement~~ and approved by the Department; ~~and~~
- 9) The Grantee agrees not to enter~~A covenant that the Grantee shall refrain from entering~~ into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the Act; ~~and-~~
- 10) The Grantee agrees to acknowledge the Department's participation in the Project by displaying the Department's current logo and/or providing a statement that identifies the Project as being developed and/or funded in cooperation with the Department/Bureau of Tourism. Grantee's failure to utilize the Department logo correctly (e.g., size, placement, etc.) or statement may result in a 10% deduction of the Total Project Cost.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.60 Computation of Time

Computation of any period of time prescribed by this Part shall begin with the first business day following the day on which the act, event or development initiating that period of time occurs,

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

and shall run until the end of the last day or the next business day if the last day is a Saturday, Sunday or federal or State holiday. ~~When the period of time is 5 days or less, Saturday, Sunday and federal or State holidays shall be excluded in the computation of time.~~ Timeliness shall be deemed by the date of postmark or the date of hand delivery.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.70 Severability (Repealed)

~~If any Section, subsection, subdivision, paragraph, sentence, clause or phrase in this Part or any portion thereof is for any reason held to be unconstitutional or invalid or ineffective by any form of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Part or any portion thereof.~~

(Source: Repealed at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.80 Administrative Requirements for Grants

- a) Termination of Grant – Grants shall be terminated for the following reasons:
 - 1) Termination Due to Loss of Funding – In the absence of State funding for a ~~Fiscal Year~~fiscal year, all grants for that year will be terminated in full. In the event of a partial loss of State funding, the Department will make proportionate cuts to all Grantees. In the event the Department suffers such a loss of funding in full or part, the Department will give the Grantee written notice setting forth the effective date of full or partial termination or, if a change in funding is required, setting forth the change in funding and changes in the approved budget.
 - 2) Termination for Cause
 - A) If the Department determines that the Grantee has failed to comply with the terms and conditions of the grant or this Part, the Department may~~shall~~ terminate the grant in whole, or in part, at any time before the date of completion. Circumstances that will result in the termination of a grant include, but are not necessarily limited to, the following: consistent failure to submit required reports; failure to maintain required records; evidence of fraud and abuse; and consistent failure to meet performance standards.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

These circumstances are explained in the [Grant Agreement](#)~~grant agreement~~.

- B) The Department shall notify the Grantee in writing, within 10 working days after the determination to terminate, of the reasons for ~~the such~~ termination and the effective date of the termination. Payments made to the Grantee or recoveries by the Department shall be made in accordance with legal rights and liabilities in the [Grant Agreement and the Illinois Grant Funds Recovery Act \[30 ILCS 705\]](#)~~grant agreement~~.
- 3) Termination by Agreement – The Department and the Grantee shall terminate the grant in whole or in part when the Department and the Grantee agree that the continuation of the [Program](#)~~program~~ objectives would not produce beneficial results commensurate with the future expenditure of funds. The Department and the Grantee shall agree upon termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the Grantee for the Department's share of the noncancelable obligations, properly incurred by the Grantee prior to termination.
- b) Interest on Grant Funds – In accordance with Section 10 of the Illinois Grant Funds Recovery Act, ~~[30 ILCS 705/10]~~ all interest earned on [Grant Funds](#)~~funds~~ held by the Grantee under the grant shall become part of the grant when earned, ~~as long as this amount does not exceed the maximum allowable grant award~~. Any interest earned under the grant, and not expended as grant principal during the term of the grant, shall be returned to the Department [under the grant close-out process described in subsection \(c\)](#).
- c) Grant Close-out – In accordance with Section 4 of the Illinois Grant Funds Recovery Act ~~[30 ILCS 705/4]~~, [any Grant Funds not expended or legally obligated, all funds](#), including any interest, remaining at the end of the grant period or at the expiration of the period of time [Grant Funds were](#)~~grant funds are~~ available for expenditure or obligation by the Grantee, shall be returned to the Department within 45 days after the end of the [grant term](#)~~relevant period~~. ~~The Grantee agrees to repay the Department for any funds that are determined by the~~

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

~~Department to have been spent in violation of the grant agreement.~~

- d) Audits – A Grantee shall be responsible for securing ~~ana-compliance~~ audit for any grant award exceeding ~~\$500,000~~~~300,000~~. Additionally, an audit may be required when certain risk conditions exist, including, but not limited to, a negative compliance history and disclosure of previous material audit findings. The audit shall be performed by an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit shall be conducted in accordance with generally accepted auditing standards contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, New York 10036 (June 2007, no later editions are incorporated)~~Harborside Financial Center, 201 Plaza 3, Jersey City, New Jersey 07311 (June 2000, no later editions are incorporated).~~
- e) Special Audits – The Department reserves the right to conduct special audits, including but not limited to an agency-wide audit, at any time during normal working hours, of the funds expended under Department grants.
- f) Monitoring and Evaluation – Grantee shall permit any agent authorized by the Department, the Office of Inspector General, the Auditor General of the State of Illinois, or any of their duly authorized representatives, upon presentation of credentials, in accordance with the constitutional limitation on administrative searches, to have full access to and the right to examine any documents, papers, and records of the Grantee involving transactions related to a grant from the Department. Once the Department has concluded its monitoring activities, the Grantee will be notified of the Department's determination and findings, if any. If a determination containing findings of noncompliance has been made by the Department, the Grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved, the Department will issue a final determination~~notice~~ requesting that the Grantee repay any funds that are determined by the Department to have been spent in violation of the Grant Agreement~~agreement~~. If the Grantee fails to comply with the Department's final determination~~notice~~, the Department shall issue a final notice to the Grantee providing it~~the Grantee~~ the opportunity to invoke its rights under the Illinois Grant Funds Recovery Act~~request an administrative hearing pursuant to the Department's Administrative Hearing Rules found at 56 Ill. Adm. Code 2605.~~

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- g) Complaint Process – An administrative hearing is initiated by a party serving a Petition for Hearing on the Department, or by the Department serving a Notice of Charges on the Grantee. In either case, the Department and the Grantee shall follow the Administrative Hearing Rules as set forth in 56 Ill. Adm. Code 2605.
- h) Certifications – The Grantee shall certify that it has not been barred from contracting with a unit of State or local government as a result of a violation of 720 ILCS 5/33E-3 and 33E-4.
- i) Reports – Grantee shall submit, as required by the Department, reports on the financial status of the ~~Project~~project and reports on outcomes and results of the ~~Project~~project.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

SUBPART B: TOURISM MARKETING PARTNERSHIP PROGRAM

Section 510.110 Purpose

Section 5 of the Act authorizes the Department to make grants to counties, municipalities, not-for-profit organizations, and ~~Local Promotion Groups~~local promotion groups located in the State of Illinois to assist in the promotion of ~~Tourism Attractions, Tourism Destinations,~~tourism destinations, attractions and ~~Tourism Events in Illinois~~events.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.120 Eligible Uses of Grant Funds

- a) Eligible Promotional Projects and Activities – The Program shall provide matching grants to eligible ~~Applicants~~applicants to assist in promotional activities including, but not limited to, the following:
 - 1) ~~Production and printing of travel related brochures that are primarily used as fulfillment for advertising placed outside of 50 miles;~~ Travel Related Promotional Materials: Costs related to production, design and distribution of travel related brochures, visitor guides, direct mail literature or travel guides that are primarily used to promote areas outside of 50 miles from the Tourism Attractions, Tourism Destinations or Tourism Events in Illinois

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 2) Media: Costs related to production, design and placement for print advertising, radio advertising, on line advertising, out of home advertising and television advertising directed toward areas outside of 50 miles from the Tourism Attraction, Tourism Destination or Tourism Event in Illinois~~Advertising primarily directed toward areas outside of 50 miles from the attraction, event, or area being promoted;~~
- 3) Billboards: Costs related to design and production of billboard artwork and rental of billboard space directed toward areas outside of 30 miles from the Tourism Attraction, Tourism Destination or Tourism Event in Illinois, unless the billboard is placed on an intrastate~~Rental of billboard space and artwork, design and production of billboard advertising to promote a destination, attraction, event or other travel related service;~~
- 4) Web Sites: Costs related to Web site development, including hosting fees, domain registration and related maintenance fees, search engine optimization and key word searches;
- 5) Market Research: Costs to conduct research to optimize the effectiveness of marketing the Tourism Attraction, Tourism Destination or Tourism Event in Illinois to areas outside of 50 miles;~~Marketing research;~~
- 6) Travel/Trade Shows: Costs related to travel/trade show booth space rental~~Travel/trade show booth space rental~~ and related expenses, including travel show registration fees for domestic and international marketing, utilities, furniture rental, cleaning, etc. (i.e., electric, furniture rental, cleaning, etc.), and travel/trade show registration fees for both domestic and international marketing;
- 7) Visitor Inquiries: Costs related to telephone expenses for toll free telephone numbers~~1-800-number telephone expenses~~ for visitor inquiries;
and
- 8) Mail Promotions: Costs of the purchase and use of mailing lists for direct mail promotions, provided the promotional material is printed under this Program and provided the postage is billed at bulk rate;
- 98) Promotional Publications: Expenses for shipping and distribution of

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

promotional publications printed under this Program to State funded Tourism information centers;~~purchase and use of mailing lists for direct mail promotions, and postage used for fulfillment.~~

- 10) Ad Campaigns: Costs related to email newsletters and ad mail campaigns primarily directed towards visitors outside a 50 mile radius from the Tourism Attraction, Tourism Destination or Tourism Event in Illinois; and
- 11) Maps: Costs related to the design and production of maps illustrating the Tourism Attractions of an area being promoted.

- b) Ineligible Promotional Projects and Activities – Projects and activities ineligible for funding are those that do not contribute to increasing visitation and travel expenditures in the State, including, but not limited to:
- 1) Administrative expenses (e.g., stationery, envelopes, basic telephone service charges except for toll free number phone expenses for visitor inquiries~~phone~~, rent, newsletters, supplies, personnel or equipment, and grant management fees)~~except for 1-800 number phone expenses for visitor inquiries;~~
 - 2) Normal postage, distribution and shipping expenses, except for those allowed in subsections~~subsection~~ (a)(8) and (a)(9);
 - 3) Association or organizational dues;
 - 4) Street banners, bumper stickers, placemats, or any type of specialty items;
 - 5) Any type of quick-print materials;
 - 6) Purchase or rental of projectors, television sets, or video recorders;
 - 7) Projects solely promoting for-profit entities;
 - 8) Event production expenses (e.g., audio equipment, awards, entertainment, fireworks, portable restrooms, hired labor, refreshments, etc.);
 - 9) Travel expenses (transportation, lodging, per diem); and

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

~~10) Maintenance fees associated with a website; and~~

~~1011)~~ Promotion of county fairs.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.130 Allocation of Appropriations

Annual appropriations made by the Illinois General Assembly to the Department for the purpose of making grants under Section 5 of the Act for promotional activities are allocated by the Department pursuant to Section 8(1) of the Act.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.140 Funding Limitation

The Total Project Cost~~total project cost~~ must equal or exceed \$3,000 in order to be considered for a grant award.

- a) Up to 40 percent% of the Total Project Cost~~total project cost~~ may be funded for approved Projects~~projects~~ generating additional visitation to the area from outside 50 miles but generating limited overnight stays.
- b) Up to 50 percent% of the Total Project Cost~~total project cost~~ may be funded for Projects~~projects~~ that generate significant visitation and overnight stays to the area.
- e) ~~Up to 60% of the total project cost may be funded for:~~
 - 1) ~~First time marketing activities that have the ability to generate significant visitation and overnight stays;~~
 - 2) ~~Advertising of a value-added package, including overnight accommodations with attraction admission, coupons, etc.;~~
 - 3) ~~Marketing an entire heritage tourism demonstration area or scenic byway; and~~
 - 4) ~~Projects including partners across multiple jurisdictions outside their normal designated service area.~~

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- cd) The maximum ~~Grant Amount~~grant amount for any one Grantee in a ~~Fiscal Year~~fiscal year shall be \$50,000, unless a ~~Project~~project is a cooperative marketing ~~project initiated opportunity supported or promoted~~ by the Department that includes multiple partners across multiple Local Tourism Convention Bureau jurisdictions. However, if on February 1 of any given year, remaining Grant Funds are funds remain available, Grantees who have reached ~~the~~their maximum ~~Grant Amount~~grant amount of \$50,000 can apply for additional funds.
- de) Grantees that charge "for-profit" participants for inclusion in promotional projects must also include the promotion of the entire destination in such advertisements. Charges for participation from any source cannot exceed the match requirement or it will lower the Department's grant award.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.150 Matching Funds

As provided for in Section 510.140, the~~The~~ Grantee shall provide Matching Funds~~matching funds~~ to the Total Project Cost~~total project cost~~ that:

- a) Are identified in the budget of the Grant Agreement~~grant agreement~~;
- b) In no case shall be less than 50 percent~~40%~~ of the Total Project Cost~~total project cost~~;
- c) Are not funds from other Department funded grant programs or funds used to match any other grants; and
- d) Are necessary and irrevocably obligated to the Project.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.160 Evaluation and Selection Process

- a) ~~The~~Upon completion of the Application procedure as described in Section 510.40, the Department's internal review committee shall conduct an evaluation of each Application. Each question will be scored using a rating system of 1-10 with 10 being the highest possible score per question, with a maximum possible score of

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

100. The criteria used in determining whether an Application will be considered for a grant award include, but are not limited to, the following:

- 1) To what extent does the~~Does the~~ Project promote a viable Tourism Attraction, Tourism Destination or Tourism Event~~tourism destination, attraction or event~~ located within 30 miles of an area with Supporting Visitor Services~~supporting visitor services~~?
- 2) To what extent is~~Is~~ the Project part of the Applicant's overall marketing plan?
- 3) To what extent does~~Does~~ the Project include repeat marketing efforts and to what extent do~~do~~ the results from those efforts justify repeat funding?
- 4) To what extent do~~Do~~ the geographic advertising markets appear reasonable and based upon research?
- 5) To what extent will~~Will~~ a majority of the marketing be targeted to attract visitors from outside 50 miles?
- 6) To what extent does~~Does~~ the Project encompass multiple attractions, municipalities, or counties?
- 7) To what extent does~~Does~~ the Project demonstrate how it will increase visitation, length of stay and/or Tourism~~tourism~~ expenditures from outside 50 miles?
- 8) To what extent does~~Does~~ the Project include tracking and evaluation measures?
- 9) To what extent will~~Will~~ the Project have a significant impact on the area's overall tourism efforts?
- 10) To what extent will the Project have a significant impact on the State's overall tourism efforts?

- b) ~~The Department's internal review committee shall evaluate the criteria using a point system with ratings of 1 through 10, using the following guidelines:~~

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 1) ~~A rating of 1 means that the Application meets the criteria at a minimum level;~~
 - 2) ~~A rating of 3 means that the Application meets the criteria at a below average level;~~
 - 3) ~~A rating of 5 means that the Application meets the criteria at an average level;~~
 - 4) ~~A rating of 7 means that the Application meets the criteria at an above average level; and~~
 - 5) ~~A rating of 10 means that the Application meets the criteria at an exceptional level.~~
- e) ~~Internal review committee members may deduct points from their overall scores for deficiencies in accountability, timeliness and effectiveness in how the Applicant met the criteria in subsection (a) of this Section on the most recent grant performance by deducting:~~
- 1) ~~1 point for minimum deficiencies;~~
 - 2) ~~3 points for above average performance;~~
 - 3) ~~5 points for average performance;~~
 - 4) ~~7 points for below average performance; or~~
 - 5) ~~10 points for poor performance.~~
- bd) The scores of the Department's internal review committee are averaged to obtain the Application's total score. An Application must receive a minimum of 50 of 100 possible~~40~~ points to be considered eligible for funding. The internal review committee shall forward all eligible Applications, together with its recommendations, to the Director for final determination. During the final review process, the Director will determine whether an eligible Application is awarded a grant.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: TOURISM ATTRACTION DEVELOPMENT
GRANT AND LOAN PROGRAM**Section 510.220 Eligible Uses of Grant and Loan Funds**

- a) Eligible Projects and Activities – The Program shall provide grants and loans to eligible Applicants for ~~Projects~~projects and activities including, but not limited to, the following:
- 1) Capital Projects – land and building acquisition, construction and, renovation ~~or acquisition~~ of buildings for the purpose of creating or enhancing a Tourism Attraction;
 - 2) Equipment – purchase and installation of machinery and equipment designed to create or enhance the Tourism Attraction;
 - 3) Training – development and presentation of hospitality, quality service and/or other types of tourism training programs intended to provide a competitive workforce for the tourism industry of Illinois;
 - 4) Studies – feasibility, research, development, and marketing studies dedicated to improving and developing tourism specific attractions; and
 - 5) Interpretive Programs – creation, implementation and staffing of and fabrication of exhibits for, interpretive programs located within historic/cultural sites.
- b) Ineligible Projects and Activities – Projects and activities ineligible for funding include, but are not limited to, the following:
- 1) Debt refinancing;
 - 2) Contingency funding;
 - 3) Normal operating expenses; and
 - 4) ~~Routine staff;~~5) Operating expenses; and~~6) Administrative expenses.~~

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.240 Funding Limitation

The Department shall provide no more than 50 percent% of the entire amount of actual expenditures for a single Projectproject, with grants not to exceed \$1,000,000, as set forth in Section 8a(1) of the Act.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.250 Matching Funds

- a) The Grantee shall provide Matching Fundsmatching funds to the Total Project Costtotal project cost that:
- 1) Are identified in the budget of the Grant Agreementgrant agreement;
 - 2) In no case shall be less than 50 percent% of the Total Project Costtotal project cost, if the Grantee is a unit of local government,a county, municipality, not-for-profit organization or Local Promotion Grouplocal promotion group;
 - 3) In no case shall be less than 75 percent% of the Total Project Costtotal project cost, if the Grantee is a for-profit business;
 - 4) Are not funds from other Department funded grant programs or funds used to match any other grants; and
 - 5) Are necessary and irrevocably obligated to the Project.
- b) Allowable match includes:
- 1) Term loan proceeds, bond sale proceeds, or other forms of financial institution participation;
 - 2) Other public grant or loan program funds;
 - 3) Retained earnings, proceeds of a public stock offering, or other cash equity, excluding pre-project officer notes payable, off-balance sheet debt

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

financing and goodwill;

- 4) Local hotel/motel tax, membership dues, or other cash contributions; and
- 5) In Kind Contributions~~In-kind contributions~~ necessary to complete the Project~~project~~ and for which the cash value is easily documented (i.e., donated labor, equipment, supplies and materials), and that are eligible grant and match line-item expenditures identified in the budget of the Grant Agreement~~grant agreement~~. In Kind Contributions~~In-kind contributions~~ may only be used as allowable match by municipalities, counties, not-for-profit organizations, or Local Promotion Group~~local promotion groups~~ and cannot exceed 25 percent~~%~~ of the match requirement.

c) Unallowable match includes:

- 1) Costs incurred or funds expended prior to the date of the grant or loan award, unless those costs are approved by the Department as being otherwise compliant with the provisions of this Part and consistent with the purposes of the Act;
- 2) Funds from other Department funded grant programs (although they may be used to further the Project);
- 3) Existing equipment, buildings, furnishings, or inventory, already owned;
- 4) Lines of credit;
- 5) Contract for deed without a due and payable clause or that is an apparent substitution for simple rent;
- 6) Post-Project~~Post-project~~ costs such as normal operational expenses;
- 7) Debt refinancing; and
- 8) In Kind Contributions~~In-kind contributions~~, if the Grantee is a for-profit business.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

Section 510.260 Evaluation and Selection Process

- a) ~~The~~ Upon completion of the Application procedure as described in Section 510.40, ~~the~~ Department's internal review committee shall conduct an evaluation of each Application. Each question will be scored using a rating system of 1-10 with 10 being the highest possible score per question, with a maximum possible score of 100. The criteria used in determining whether an Application will be considered for a grant award include, but are not limited to, the following:
- 1) To what extent is ~~Is~~ the Project a viable Tourism Attraction~~tourism attraction~~ located within 30 miles of an area with Supporting Visitor Services~~supporting visitor services~~?
 - 2) To what extent does ~~Does~~ the attraction meet the definition of a Tourism Attraction~~tourism attraction as defined~~ in Section 510.20 of this Part?
 - 3) To what extent are ~~Are~~ the costs itemized on the budget reasonable and necessary to enhance or develop the Tourism Attraction~~tourism attraction~~?
 - 4) To what extent is ~~Is~~ the Tourism Attraction~~tourism attraction~~ currently marketed or going to be marketed to visitors from outside 50 miles?
 - 5) To what extent does ~~Does~~ the Project demonstrate how it will increase visitation, length of stay and/or Tourism~~tourism~~ expenditures from outside 50 miles?
 - 6) To what extent does ~~Does~~ the Project include adequate tracking and evaluation measures?
 - 7) To what extent will ~~Will~~ the development or enhancement of the Tourism Attraction~~tourism attraction~~ be completed and open to the public with regular scheduled hours at the end of the grant period?
 - 8) To what extent will ~~Will~~ the increase in expenditures from additional visitors generate economic benefits to the State and local area~~Return on Investment (ROI) for the State within 3 years~~?
 - 9) To what extent will ~~Does~~ the Project have a~~demonstrate the potential for~~

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

~~sustainable economic growth and job creation, or a~~ significant impact on the area's overall tourism efforts?

10) To what extent will the Project demonstrate the potential for sustainable economic growth and job creation, and to what extent will it have a significant impact on the State's overall tourism efforts?

b) ~~The Department's internal review committee shall evaluate the criteria using a point system with ratings of 1 through 10, using the following guidelines:~~

- 1) ~~A rating of 1 means that the Application meets the criteria at a minimum level;~~
- 2) ~~A rating of 3 means that the Application meets the criteria at a below average level;~~
- 3) ~~A rating of 5 means that the Application meets the criteria at an average level;~~
- 4) ~~A rating of 7 means that the Application meets the criteria at an above average level; and~~
- 5) ~~A rating of 10 means that the Application meets the criteria at an exceptional level.~~

e) ~~Internal review committee members may deduct points from their overall scores for deficiencies in accountability, timeliness and effectiveness in how the Applicant met the criteria in subsection (a) of this Section on the most recent grant performance by deducting:~~

- 1) ~~1 point for minimum deficiencies;~~
- 2) ~~3 points for above average performance;~~
- 3) ~~5 points for average performance;~~
- 4) ~~7 points for below average performance; or~~
- 5) ~~10 points for poor performance.~~

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- bd)** The scores of the Department's internal review committee are averaged to obtain the Application's total score. An Application must receive a minimum of ~~50 out of 100 possible~~⁴⁰ points to be considered eligible for funding. The internal review committee shall forward all eligible Applications, together with its recommendations, to the Director for final determination. During the final review process, the Director will determine whether an eligible Application is awarded a grant.
- ce)** Financial Evaluation Component – The Department shall conduct a financial analysis of the loan Application submitted by for-profit companies. The Department shall review the company's financial statements, including the annual balance sheets and profit and loss statements for the past 3 years, as well as the most recent 90 days, and a 3 year projected balance sheet and profit and loss statement, ~~and as well as~~ a one year monthly cash flow statement. A comprehensive business plan or company annual reports may be submitted in lieu of the aforementioned material. This shall be reviewed through a standard credit analysis that will determine the: liquidity and debt coverage for the ~~Project~~^{project}; ability of the company to manage debt; business trends; and projected earnings. This data will be compared to similar data for companies in the same industry using the 1999-2000 (no later amendments or editions included) "RMA Annual Statement Studies", published by Risk Management Association, One Liberty Plaza, 1650 Market, Suite 2300, Philadelphia, PA 19103, or a comparable source if ~~the~~^{such} industry is evaluated by this source or a comparable source. This standard credit analysis will determine the financial stability of the company and need for funding.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

SUBPART D: TOURISM PRIVATE SECTOR GRANT PROGRAM

Section 510.310 Purpose

Section 5**(b)** of the Act authorizes the Department to make grants to Illinois not-for-profit organizations, for-profit entities, counties, municipalities and ~~Local Promotion Groups~~^{local promotion groups} to match funds from sources in the ~~Private Sector~~^{private sector} for the purpose of attracting and hosting ~~Tourism Events~~^{tourism events}.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

Section 510.320 Eligible Uses of Grant Funds

a) Eligible Projects and Activities – Activities eligible for funding include, but are not limited to, the following costs associated with attracting and hosting ~~new~~ events:

- 1) Advertising and marketing activities directed toward areas outside of 50 miles from the event;
- 2) Transportation and housing;
- 3) ~~Prize/award money~~Incentives;
- 4) Building or equipment rental;
- 5) Receptions and banquets;
- 6) Registrations;
- 7) Entertainment and speakers;
- 8) Programming;
- 9) Photography, postage and printing;
- 10) Audiovisual;
- 11) Telemarketing;
- 12) Promotional items; and
- 13) Temporary staff.

~~Costs associated with hosting existing or repeat events will not be eligible unless documentation can be provided that the event was secured in direct competition with other states or significant enhancements will be made to the event to increase the attendance from outside 50 miles.~~

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- b) Ineligible Projects and Activities – Activities that are ineligible for funding include, but are not limited to, the following:
- 1) Developing or making permanent improvements to facilities;
 - 2) Purchase of equipment;
 - 3) Normal payroll or operating expenses; and
 - 4) Purchase of alcoholic beverages.
- c) Grant Funds cannot be used to assist one community in attracting an existing Illinois event from another Illinois community. If multiple eligible Illinois entities apply for a grant associated with attracting the same event, no entity will receive Grant Funds for the attraction of that event. If an Illinois entity is successful in its bid and gets the event, Grant Funds may be available to that entity for the hosting of the event.
- d) Costs associated with hosting existing or repeat events will not be eligible unless documentation can be provided that the event was secured in direct competition with other states or significant enhancements will be made to the event to increase the attendance from travel outside 50 miles.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.330 Allocation of Appropriations

Annual appropriations made by the Illinois General Assembly to the Department for the purpose of making grants under Section 5 of the Act to match funds from the Private Sector~~private sector~~ may be used by the Department in any county of this State.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.340 Funding Limitation

The Department shall provide no more than 50 percent~~%~~ of the entire amount of eligible expenditures for a single Project~~project~~. Total Project Costs~~eligible project costs~~ must be a minimum of \$20,000.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.350 Matching Funds

- a) The Grantee shall provide Matching Funds~~matching funds~~ to the Total Project Cost~~total project cost~~ that:
- 1) Are identified in the budget of the Grant Agreement~~grant agreement~~;
 - 2) In no case shall be less than an amount equal to the grant award ~~or 50% of the total project cost~~;
 - 3) Are not other government funds or funds used to match any other grants; and
 - 4) Are necessary and irrevocably obligated to the Project.
- b) Allowable Match~~match includes~~:
- 1) Private Sector funds – Grant funds must be matched with dollar-for-dollar cash funding from the Private Sector~~private sector~~; and
 - 2) Up to 25 percent of the amount required in subsection (b)(1) may be substituted with In Kind Contributions~~In-kind contributions~~ from the Private Sector~~private sector~~ for which the value is easily documented~~documentable~~, such as hotel services and transportation company services, ~~not to exceed 25% of the match~~.
- c) Unallowable match includes:
- 1) Costs incurred or funds expended prior to the date of the grant award, unless those costs are approved by the Department as being otherwise compliant with the provisions of this Part and consistent with the purposes of the Act;
 - 2) Post-Project~~Post-project~~ costs not identified in the budget of the Grant Agreement~~grant agreement~~;
 - 3) Funds from sources other than the Private Sector~~private sector~~ (although

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

they may be used to further the Project);

- 4) Funds used as match for other grant programs; and
- 5) Normal operational expenses such as payroll costs, office and equipment rental, utilities, etc.

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

Section 510.360 Evaluation and Selection Process

- a) ~~The~~ Upon completion of the Application procedure described in Section 510.40, ~~the~~ Department's internal review committee shall conduct an evaluation of each Application. Each question will be scored using a rating system of 1-10 with 10 being the highest possible score per question, with a maximum possible score of 100. The criteria used in determining whether an Application will be considered for a grant award includes, but is not limited to, the following:
 - 1) To what extent ~~is~~ the event being held within 30 miles of an area with Supporting Visitor Services~~supporting visitor services~~?
 - 2) To what extent ~~are~~ the costs itemized on the budget reasonable and necessary to hold the event?
 - 3) To what extent ~~will~~ the event be marketed to visitors from areas outside 50 miles of the event?
 - 4) To what extent ~~will~~ the event attract ~~more than 5000~~ visitors from outside a 50-mile radius?
 - 5) To what extent ~~will~~ the event generate media coverage outside the local area?
 - 6) To what extent ~~will~~ the event increase visitation, length of stay and/or Tourism~~tourism~~ expenditures from outside 50 miles?
 - 7) To what extent ~~are there~~ established tracking and evaluation measures for the event?

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 8) To what extent will State and local tax revenue will be generated (assuming 6.9 cents in State and local taxes generated for every \$1 in visitor expenditures) in comparison to the amount requested~~Will the event generate a Return on Investment (ROI) of a minimum of \$1:\$1 in State tax revenues?~~
 - 9) To what extent will~~Will~~ the event have a significant impact on the area's overall tourism efforts?
 - 10) To what extent will the event have a significant impact on the State's overall tourism efforts?
- b) ~~The Department's internal review committee shall evaluate the criteria using a point system with ratings of 1 through 10, using the following guidelines:~~
- 1) ~~A rating of 1 means that the Application meets the criteria at a minimum level;~~
 - 2) ~~A rating of 3 means that the Application meets the criteria at a below average level;~~
 - 3) ~~A rating of 5 means that the Application meets the criteria at an average level;~~
 - 4) ~~A rating of 7 means that the Application meets the criteria at an above average level; and~~
 - 5) ~~A rating of 10 means that the Application meets the criteria at an exceptional level.~~
- e) ~~Internal review committee members may deduct points from their overall scores for deficiencies in accountability, timeliness and effectiveness in how the Applicant met the criteria in subsection (a) of this Section on the most recent grant performance by deducting:~~
- 1) ~~1 point for minimum deficiencies;~~
 - 2) ~~3 points for above average performance;~~

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- ~~3) 5 points for average performance;~~
 - ~~4) 7 points for below average performance; or~~
 - ~~5) 10 points for poor performance.~~
- bd) The scores of the Department's internal review committee are averaged to obtain the Application's total score. An Application must receive a minimum of 50 out of 100 possible~~40~~ points to be considered eligible for funding. The internal review committee shall forward all eligible Applications, together with its recommendations, to the Director for final determination. During the final review process, the Director will determine whether an eligible Application is awarded a grant.
- e) ~~Grant funds will not be used to assist one community in attracting an existing Illinois event from another Illinois community.~~
- f) ~~If multiple Illinois entities apply for costs associated with attracting the same event, no entity will receive grant funds for the attraction of that event. If an Illinois entity is successful in its bid and gets the event, grant funds may be available to that entity for the hosting of the event.~~

(Source: Amended at 32 Ill. Reg. 13443, effective July 29, 2008)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers</u> :	<u>Adopted Action</u> :
800.30	Amendment
800.40	Amendment
- 4) Statutory Authority: Implementing Section 4-104(B) and (C) and authorized by authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/4-102(B) and (C) and 7-101(A)]
- 5) Effective Date of Amendments: August 1, 2008
- 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 amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 25, 2008; 32 Ill. Reg. 6894
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were suggested by JCAR.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Pursuant to Section 1-103(I) of the Illinois Human Rights Act ("Act") [775 ILCS/1-101(I)], the word "Handicap" has been replaced with the word "Disability". The proposed amendments clarify the Department's regulations to make the regulations consistent with the Act.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

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

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

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

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

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

SOURCE: Adopted at 7 Ill. Reg. 9889, effective August 15, 1983; codified at 8 Ill. Reg. 15926; amended at 22 Ill. Reg. 6659, effective March 27, 1998; amended at 32 Ill. Reg. 13475, effective August 1, 2008.

Section 800.30 Other Definitions

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

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

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

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

(Source: Amended at 32 Ill. Reg. 13475, effective August 1, 2008)

Section 800.40 Permissible Inquiries of Credit Applicants.

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

contractually liable upon it;

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

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

5) Source of Income. A creditor shall advise applicants, before inquiring generally into their available income, that they need not disclose income derived from alimony, child support or separate maintenance payments if they do not desire that income considered in evaluating their creditworthiness. This advice is not required, however, if the terms of the inquiry are sufficiently specific (e.g., focused exclusively on employment income) as to reasonably preclude disclosure of alimony, child support or separate maintenance. A creditor may inquire whether any of an applicant's listed income is derived from a public assistance program, to evaluate the likely continuation and future reliability of those payments, and to ascertain its rights and remedies regarding repayment, if the inquiry is made uniformly of all applicants without regard to a prohibited characteristic.

6) ~~Disability~~Handicap. A creditor may not inquire whether an applicant has a ~~disability~~handicap. If any income listed by the applicant is derived from disability or public assistance benefits occasioned by a ~~disability~~handicap, however, the creditor may request information regarding the nature and duration of the condition for purposes of evaluating the probable continuation and future reliability of that income. A creditor may also inquire into an applicant's physical condition in connection with an application for credit insurance, to determine the conditions on which ~~such~~ insurance may be available to the applicant.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 32 Ill. Reg. 13475, effective August 1, 2008)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers</u> :	<u>Adopted Action</u> :
2520.10	Amendment
2520.560	Amendment
2520.573	Amendment
2520.587	Amendment
2520.795	Amendment
- 4) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)]
- 5) Effective Date of Amendments: August 1, 2008
- 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 amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 25, 2008; 32 Ill. Reg. 6901
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Grammatical, punctuation or other non-substantive changes were made as agreed upon with JCAR.
- 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 any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Amendments: The amendment to Section 2520.10 updates definitions pursuant to recent amendments to the Illinois Human Rights Act [775 ILCS 5/2-105(B)(1)]. The amendments to Sections 2520.560 and 2520.573 clarify the Department's dismissal and Request for Review procedures that were modified in recent amendments to the Illinois Human Rights Act. The amendment to Section 2520.587 modifies the Department's regulations to limit the time period when the Chief Legal Counsel's Orders are published on the internet and to limit the time periods for maintaining orders at the Department and in archives. The amendment to Section 2520.795 will assist the Department in enforcing the affirmative action requirements for state executive agencies mandated by Section 2-105(B)(1) of the Illinois Human Rights Act [775 ILCS 5/2-105(B)(1)], and to promote equal opportunity for State residents
- 16) Information and questions regarding these adopted amendments shall be directed to:

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

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

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

PART 2520

PROCEDURES OF THE DEPARTMENT OF HUMAN RIGHTS

SUBPART A: INTERPRETATIONS

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

SUBPART B: CHARGE

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

SUBPART C: PROCEDURE UPON CHARGE

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

SUBPART D: SETTLEMENTS

Section

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

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section

- 2520.550 Administrative Closure
- 2520.560 Dismissal
- 2520.570 Default

SUBPART F: REQUESTS FOR REVIEW

Section

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

SUBPART G: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

Section

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

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

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

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

effective December 28, 2004; amended at 30 Ill. Reg. 1343, effective January 13, 2006; amended at 30 Ill. Reg. 13403, effective July 31, 2006; amended at 30 Ill. Reg. 18715, effective November 20, 2006; amended at 31 Ill. Reg. 12319, effective August 8, 2007; amended at 31 Ill. Reg. 14815, effective October 19, 2007; amended at 32 Ill. Reg. 13482, effective August 1, 2008.

SUBPART A: INTERPRETATIONS

Section 2520.10 Definition of Terms

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

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

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

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

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

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

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

Days – calendar days.

Department – the Department of Human Rights.

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

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

Party – the complainant or respondent.

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

Request for Review – [as to charges filed with the Department before January 1, 2008](#), an appeal filed with the Chief Legal Counsel as described in [Section 7A-102\(D\)\(3\) Sections 7-101.1 and 7-112](#) of the Act [before passage of PA 95-243 \[775 ILCS 5/7A-102\(D\)\(3\)\] \[725 ILCS 5/7-101.1 and 7-112\]](#). [As to charges filed with the Department on or after January 1, 2008](#), an appeal filed with the Commission as described in [Section 7A-102\(D\)\(3\) of the Act](#).

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

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

(Source: Amended at 32 Ill. Reg. 13482, effective August 1, 2008)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section 2520.560 Dismissal

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

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

(Source: Amended at 32 Ill. Reg. 13482, effective August 1, 2008)

SUBPART F: REQUESTS FOR REVIEW

Section 2520.573 Filing with Chief Legal Counsel

| For charges filed on or after January 1, 1996 [and before January 1, 2008](#):

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

(Source: Amended at 32 Ill. Reg. 13482, effective August 1, 2008)

Section 2520.587 Decision

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

(Source: Amended at 32 Ill. Reg. 13482, effective August 1, 2008)

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES**Section 2520.795 [EEO/AA Performance Compliance](#) Reviews**

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

~~been met and the agency has not demonstrated and documented concerted efforts to meet its responsibilities.~~

c) Compliance Process

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

- A) The monthly report shall list each employment transaction for the month by job title, EEO job category, pay grade or merit compensation level, geographic region and affirmative action group of the employee affected. The report shall also indicate the number of people in each affirmative action group who applied and who were selected for each transaction.
- B) After an agency has completed training for failure to meet numerical and program goals, the agency shall describe in its monthly reports the training instituted and indicate the numbers of each affirmative action group participating in the training.
- 5) If the Department finds an agency in non-compliance with subsection (a)(2) of this Section for the third consecutive year, sanctions for non-compliance provided in Section 2520.797 of this Part will be invoked.
- 6) If the Department finds an agency in non-compliance with any other EEO/AA criteria other than subsection (a)(2) of this Section:
- A) The Director shall send a letter of findings of non-compliance to the agency, attach the EEO/AA profile report, and set forth recommendations for the agency to achieve compliance. The agency shall submit, within 30 days after receipt of the letter of findings of non-compliance, a corrective action plan incorporating the Director's recommendations, as well as other plans the agency develops to achieve compliance.
- B) If the Department determines the corrective action plan is sufficient to bring the agency into compliance, the Department will notify the agency that it has 30 days to implement the plan.
- C) The Department will monitor and periodically evaluate the implementation of the agency's corrective action plan.
- D) If the Department determines that an agency's corrective action plan is not sufficient to bring the agency into compliance, the Department will notify the agency and request a plan with alternative measures to be submitted within 30 days after the agency's receipt of the Department's notice. If the alternative

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

action plan is sufficient, the Department will proceed pursuant to subsections (b) and (c).

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

e) Agency Action

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

~~and promotion of the category of individuals affected by the failure", in cooperation with Central Management Services.~~

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

(Source: Amended at 32 Ill. Reg. 13482, effective August 1, 2008)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2300.10	Amendment
2300.35	Amendment
- 4) Statutory Authority: Implementing Articles 3, 6, and 7B and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/Arts. 3, 6 and 7B and 7-101(A)]
- 5) Effective Date of Amendments: August 1, 2008
- 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 amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 25, 2008; 32 Ill. Reg. 6916
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Non-substantive changes were made as agreed upon with JCAR.
- 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 any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Pursuant to 3-106(I)(1)(c)(iii) of the Illinois Human Rights Act [775 ILCS 5/3-106(I)(1)(c)(iii)], the Department is required to promulgate regulations regarding housing for older persons, including verification of occupancy and examples of policies and procedures. The amendments are modeled after the equivalent federal regulations, 24 CFR Sections 100.306 and 100.307.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

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

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

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

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

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

SOURCE: Adopted at 16 Ill. Reg. 8178, effective May 19, 1992; amended at 25 Ill. Reg. 2420, effective January 23, 2001; amended at 25 Ill. Reg. 9619, effective July 17, 2001; amended at 29 Ill. Reg. 13808, effective August 25, 2005; amended at 30 Ill. Reg. 1361, effective January 13, 2006; amended at 32 Ill. Reg. 13497, effective August 1, 2008.

Section 2300.10 Definitions

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

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

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

Department – shall mean the Illinois Department of Human Rights.

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

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

A condominium association;

A cooperative;

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

A municipally zoned area;

A leased property under common private ownership;

A mobile home park; and

A manufactured housing community.

(Source: Amended at 32 Ill. Reg. 13497, effective August 1, 2008)

Section 2300.35 Housing for ~~Older~~Elderly Persons

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

- 2) A facility or community shall, by January 27, 2009, develop procedures for routinely determining the occupancy of each unit, including the identification of whether at least one occupant of each unit is 55 years of age or older. These procedures may be part of a normal leasing or purchasing arrangement.
- 3) The procedures described in subsection (b)(2) of this Section must provide for regular updates, through surveys or other means, of the initial information supplied by the occupants of the housing facility or community. The updates must take place at least once every two years.
- 4) Any of the following documents are considered reliable documentation of the age of the occupants of the housing facility or community:
 - A) Driver's license;
 - B) Birth certificate;
 - C) Passport;
 - D) Immigration card;
 - E) Military identification;
 - F) Any other state, local, national or international official documents containing a birth date of comparable reliability; or
 - G) A certification in a lease, application, affidavit or other document signed by any member of the household age 18 or older asserting that at least one person in the unit is 55 years of age or older.
- 5) A facility or community shall consider any one of the forms of verification identified in subsection (b)(4) as adequate for verification of age, provided that it contains specific information about current age or date of birth.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

(Source: Amended at 32 Ill. Reg. 13497, effective August 1, 2008)

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Employee Classification
- 2) Code Citation: 56 Ill. Adm. Code 240
- 3)

<u>Section Numbers:</u>	<u>Adopted Action</u>
240.100	New
240.110	New
240.120	New
240.130	New
240.140	New
240.200	New
240.210	New
240.220	New
240.230	New
240.300	New
240.310	New
240.320	New
240.400	New
240.410	New
240.500	New
240.510	New
240.520	New
240.530	New
240.540	New
240.550	New
240.560	New
- 4) Statutory Authority: 820 ILCS 185
- 5) Effective Date of Rules: July 31, 2008
- 6) Does this rulemaking contain an automatic repeal date: No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department of Labor's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 309; January 11, 2008

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version:
- In Section 240.110, limited liability companies (LLCs) have also been excluded, along with bona fide corporations, from the definition of an "individual performing services".
- In Section 240.300, regarding complaint investigations, provisions have been added requiring the Department to give written notice to the contractor of the "substance of the complaint" and provide the contractor an opportunity to present information in its defense.
- In Section 240.310, the required advance notice to all parties of a scheduled fact-finding conference has been increased from 10 to 15 calendar days. Provisions allowing complainants to be dismissed from a case if they fail to attend such a conference, and requiring a contractor's failure to attend to be treated as evidence of having violated the Act, have been modified. Instead, the Department is to base its decision on evidence provided.
- More specific criteria have been added to Section 240.320 for determining whether an individual is an employee or an independent contractor. Record-keeping requirements for contractors in Section 240.400 have been extended to subcontractors, and the amount of time records must normally be maintained has been reduced from 5 years to 3 years.
- In Section 240.500, provisions have been added allowing either party to appeal a final determination to the Department Director or his or her chief legal counsel within 15 calendar days. Other non-substantive changes were also made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rules: This rulemaking implements provisions of Public Act 95-26, the Employee Classification Act (Act). The purpose of the Act is to address the practice in the construction industry of contractors misclassifying individuals as

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

independent contractors. This rulemaking will provide further clarity and guidance on how to interpret the law to the regulated community. The Act sets forth the Department's enforcement authority as well as penalties for violations of the Act. Section 65 of the Act gives the Department the authority to promulgate this rulemaking necessary to administer and enforce the Act.

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

Carmela González
Executive Assistant to the Director
Illinois Department of Labor
160 N. LaSalle Street, C-1300
Chicago, IL 60601

Telephone: 312/793-1808
carmela.gonzalez@illinois.gov

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

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER I: DEPARTMENT OF LABOR
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 240
EMPLOYEE CLASSIFICATION

SUBPART A: GENERAL PROVISIONS

Section	
240.100	Purpose and Scope
240.110	Definitions
240.120	Application of the Act
240.130	Jurisdiction
240.140	Waivers

SUBPART B: COMPLAINTS

Section	
240.200	Persons Who May File a Complaint
240.210	Contents and Filing of a Complaint
240.220	Review of Complaints and Dismissals
240.230	Incomplete Complaint

SUBPART C: INVESTIGATION PROCEDURES

Section	
240.300	Investigation
240.310	Fact-Finding Conference
240.320	Independent Contractor Test

SUBPART D: RECORD KEEPING AND NOTICE REQUIREMENTS

Section	
240.400	Record Keeping
240.410	Notices

SUBPART E: FINAL DETERMINATIONS

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

Section	
240.500	Decision and Notice Following Investigation
240.510	Remedies Upon Finding of a Violation
240.520	Civil Penalties
240.530	Debarments
240.540	Criminal Penalties
240.550	Retaliation
240.560	Referral to Other Agencies

AUTHORITY: Implementing and authorized by the Employee Classification Act [820 ILCS 185].

SOURCE: Emergency rule adopted at 32 Ill. Reg. 574, effective December 27, 2007, for a maximum of 150 days; emergency rule expired May 24, 2008; adopted at 32 Ill. Reg. 13504, effective July 31, 2008.

SUBPART A: GENERAL PROVISIONS

Section 240.100 Purpose and Scope

- a) The Act addresses the practice in the construction industry of some contractors misclassifying individuals as independent contractors in order to avoid payroll taxes, unemployment insurance contributions, workers' compensation premiums and minimum wage and overtime payments. This practice of misclassification puts contractors that comply with tax and employment laws at a competitive disadvantage.
- b) For purposes of ensuring that contractors comply with tax and employment laws, the Department of Labor, the Department of Employment Security, the Department of Revenue and the Illinois Workers' Compensation Commission shall cooperate by sharing information concerning any suspected misclassification of employees as independent contractors.

Section 240.110 Definitions

"Act" means the Employee Classification Act [820 ILCS 185].

"Construction" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating,

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described of any material or article of merchandise. Construction shall also include moving construction related materials on the job site to or from the job site.

"Contractor" means any sole proprietor, partnership, firm, corporation, limited liability company, association or other legal entity permitted by law to do business within the State of Illinois who engages in construction as defined in the Act. Contractor includes a general contractor and a subcontractor.

"Department" means the Department of Labor.

"Director" means the Director of the Department of Labor or an authorized representative.

"Employer" means any contractor that employs individuals deemed employees under Section 10 of the Act; however, "employer" does not include:

*the State of Illinois or its officers, agencies, or political subdivisions; or
the federal government.*

"Entity" means any contractor for which an individual is performing services and is not classified as an employee under Section 10 of the Act; however, "entity" does not include:

*the State of Illinois or its officers, agencies, or political subdivisions; or
the federal government.*

"Individual performing services" does not include a bona fide corporation nor a limited liability company (LLC). In determining whether a corporation is bona

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

fide for purposes of the Act, the Department shall consider, among other factors, whether:

the corporation is capitalized;

the corporation has issued corporate stock;

the corporation maintains a corporate bank account;

there is an intermingling of corporate and personal accounts or funds;

the corporation holds itself out as a corporation;

the corporation maintains corporate books and records, including corporate meeting minutes, and files corporate tax returns that are current and complete; and

Articles of Incorporation have been filed and the corporation is in good standing, in the case of Illinois corporations, with the Illinois Secretary of State or, in the case of foreign corporations, as directed by the laws of that jurisdiction.

In determining whether a limited liability company (LLC) is bona fide for purposes of the Act, the Department shall consider, among other factors, whether:

the LLC has assets;

the LLC maintains a company bank account;

there is an intermingling of company and personal accounts or funds;

the LLC holds itself out as an LLC;

the LLC makes necessary tax filings that are current and complete; and

Articles of Organization have been filed and the LLC is in good standing, in the case of Illinois LLCs with the Illinois Secretary of State or, in the case of foreign LLCs, as directed by the laws of that jurisdiction.

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

"Interested party" means a person with an interest in compliance with the Act.

"Performing services" means the performance of any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described of any material or article of merchandise. Construction shall also include moving construction related materials on the job site to or from the job site. [820 ILCS 185/5]

"Permitted by law to do business within the State of Illinois" means located, operating, transacting business, or performing services within the State of Illinois.

Section 240.120 Application of the Act

- a) Any individual performing services for a contractor on or after January 1, 2008 is covered by the Act.
- b) Construction services performed on or after January 1, 2008 are covered by the Act. The misclassification of an employee as an independent contractor prior to January 1, 2008 shall not serve as the basis for a violation under the Act.

Section 240.130 Jurisdiction

The Act covers public and private construction performed in the State of Illinois.

Section 240.140 Waivers

There shall be no waiver of any provision of the Act.

SUBPART B: COMPLAINTS

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

Section 240.200 Persons Who May File a Complaint

Any interested party or the Department may file a complaint alleging a violation of the Act.

Section 240.210 Contents and Filing of a Complaint

- a) A complaint shall be filed on a form to be supplied by the Department. A complaint should be in such detail as to substantially apprise the Department of the dates, locations and facts with respect to the alleged violation of the Act. Each complaint shall contain the following information:
 - 1) the full name and address of the complainant;
 - 2) the full name and address of the contractor;
 - 3) a statement or reflection of the complainant's basis of knowledge of the essential facts constituting the alleged violation, including the dates and locations of the alleged violation and the nature of the contractor's business;
 - 4) the complainant's signature, including date of signing; and
 - 5) a statement as to any other action, civil or criminal, instituted by the complainant or that the complainant has knowledge of, in any other forum based on the same violation as alleged in the complaint, together with a statement as to the status or disposition of the other action.
- b) Complaints must be filed within 180 days from the date of the alleged violation.
- c) Any complaint that fails to meet the requirements set forth in subsection (a) of this Section may be accepted by the Department if it otherwise contains the information determined by the Department to be necessary for a proper investigation and review of the alleged violation contained in the complaint.
- d) All complaints should be filed with the Department's Springfield office and will be considered filed upon receipt. Complaints shall not be accepted by facsimile or other electronic transmission.

Section 240.220 Review of Complaints and Dismissals

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

- a) Complaints shall be reviewed by the Department to determine whether there is cause for investigation.
- b) If the complaint fails to conform to the requirements set forth in Section 240.210, the complaint may be dismissed.
- c) A complaint may also be dismissed for lack of jurisdiction (examples include, but are not limited to: the construction project is located outside the State of Illinois; the complaint does not involve construction services, such as an individual performing services in a nail salon); failure to cooperate with the investigation (examples include, but are not limited to: failure to respond to reasonable requests from the Department, such as not returning phone calls, not answering questions posed during the investigation); inability to locate a party; failure to complete a complaint; lack of evidence that a violation under the Act occurred; or repeat complaints filed by the same interested party against the same contractor for the same investigation.
- d) The Department shall serve a written notice of dismissal of all or part of a complaint. The dismissal notice shall state the grounds for dismissal. The dismissal notice shall also advise the parties of the right to bring a private action pursuant to Section 60 of the Act.
- e) If at any time the Department becomes aware that there is a complaint pending in federal or State court containing some or all of the issues before the Department, it may suspend or close its investigation of those issues of the complaint that are being litigated and continue to process the remaining issues. The Department shall notify all parties in writing if its investigation of a complaint has been suspended or closed.

Section 240.230 Incomplete Complaint

If the Department receives a written complaint that complies substantially with Section 240.210 but is lacking an element that still must be provided, the Department may accept the complaint as an incomplete complaint. The Department shall notify the complainant in writing of the element that must be supplied. If the complainant fails or refuses to perfect the complaint within 30 calendar days, the complaint may be dismissed pursuant to Section 240.220.

SUBPART C: INVESTIGATION PROCEDURES

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

Section 240.300 Investigation

The Department shall conduct an investigation to ascertain the facts relating to the violation alleged in the complaint and determine whether a violation under the Act has occurred. The investigation may be made by written or oral inquiry, field visit, conference or any method or combination of methods deemed suitable at the discretion of the Department. The investigation shall include a written notice to the contractor of the substance of the complaint and an opportunity to present any information the contractor wishes the Department to consider in reaching its determination.

- a) During the investigation, if a contractor refuses to cooperate, the Department may make a finding that the Act has been violated based upon the evidence available to the Department.
- b) Complainants must provide the Department a notice of address change, telephone change or any prolonged absence from the current address so that the Department can fully investigate the complaint. All complainants must cooperate with the Department, provide necessary information and be available for interviews and conferences upon reasonable notice or request by the Department. If a complainant cannot be located or does not respond to reasonable requests by the Department, the Department shall dismiss the individual from the complaint pursuant to Section 240.220.
- c) The Department may investigate alleged violations for up to three years preceding the date the complaint was filed; however, in no instance shall the Department investigate complaints for alleged violations that occurred prior to January 1, 2008.
- d) Before making a final determination of a violation, the Department shall notify the contractors of the substance of the Department's investigation and afford the contractors an opportunity to present any written information, within 30 calendar days, for the Department to consider in reaching its determination.

Section 240.310 Fact-Finding Conference

As part of its investigation, the Department may convene a fact-finding conference in person or by telephone for the purpose of obtaining additional information or evidence, identifying the issues in dispute, ascertaining the positions of the parties and exploring the possibility of

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

settlement. The fact-finding conferences will be limited to those issues the Department believes to be relevant.

- a) Notice of the conference shall be given to all parties at least 15 calendar days prior to the conference and shall identify the individuals requested to attend on behalf of each party.
- b) A party may be accompanied at a fact-finding conference by the party's attorney or other representative and by a translator if necessary.
- c) A Department investigator shall conduct the conference and control the proceedings. No tape recordings, stenographic report or other verbatim record of the conference shall be made. If any person fails to cooperate at the conference and becomes so disruptive or abusive that a full and fair conference cannot be conducted, the Department investigator shall exclude the person from the conference.
- d) A party who appears at the conference exclusively through an attorney or other representative unfamiliar with the events at issue shall be deemed to have refused to attend, unless, with respect to a contractor, the contractor establishes that it does not employ or control any person with knowledge of the events at issue. A complainant who refuses to attend a fact-finding conference shall be dismissed from the complaint pursuant to Section 240.220. If a contractor or complainant refuses to attend a fact-finding conference, the Department shall make a determination based upon the evidence provided to the Department.

Section 240.320 Independent Contractor Test

- a) An individual performing services for a contractor is deemed to be an employee unless the individual meets all three conditions in Section 10(b)(1), (2) and (3) of the Act or the sole proprietor or partnership is deemed legitimate by meeting all 12 conditions in Section 10(c) of the Act.
- b) In determining whether direction or control exists, the Department will consider the following factors. For purposes of this Section, an "individual" means an individual performing services for a contractor. No one factor is dispositive of the issue of whether an individual is an employee or an independent contractor. The Department will review the totality of circumstances in making a decision on direction and control.

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

- 1) Is the individual eligible for a pension, health insurance, bonuses, paid vacation, or sick pay?
- 2) Does the contractor carry Workers' Compensation insurance and pay Unemployment Insurance taxes on the individual?
- 3) Does the contractor deduct Social Security taxes from the individual's compensation and report the worker's income to the Internal Revenue Service (IRS)?
- 4) Does the contractor furnish the individual with transportation, samples, business cards, or an expense account?
- 5) Does the contractor require the individual to turn down work from other contractors or assign or limit the territory in which the individual performs services?
- 6) Does the contractor set the price and credit terms for the product or the services being performed by the individual?
- 7) Does the contractor require attendance at meetings or provide training?
- 8) Does the contractor have the right to set rules and regulations?
- 9) Does the contractor require the individual to perform services a specific number of hours per day or per week?
- 10) Does the contractor issue assignments, schedule work or set quotas with time requirements?
- 11) Does the contractor require the individual to follow a routine, order or sequence set by the contractor in performing the services?
- 12) Does the contractor engage the individual with the expectation that the relationship will continue indefinitely, rather than for a specific project or period of time?

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

- c) "Usual course of services" means that the services rendered by the individual are necessary to the contractor's business and not simply incidental to the business. The fact that the services are customarily or routinely provided by an individual is not dispositive of the issue of whether the services are actually necessary to the contractor's business. In addition, if a task is performed by both a contractor's employees as well as its independent contractors, the task is considered to be in the usual course of the contractor's services.
- d) "An independently established trade, occupation, profession or business" means the individual performing the services has a proprietary interest in such business, to the extent that the individual operates the business without hindrance from any other person and, as the enterprise's owner, may sell or otherwise transfer the business.
- e) An individual may be an employee without being entirely dependent upon the relationship with a specified contractor for the individual's livelihood. An individual engaged in other occupations may be an employee of a specified contractor even though the individual only worked intermittently or part time.
- f) In determining whether an individual performing services for a contractor is an employee of the contractor, the Department shall consider the actual, rather than the alleged, relationship between the two. Designations and terminology used by the parties, as well as the individual's status for tax purposes, are not controlling.

SUBPART D: RECORD KEEPING AND NOTICE REQUIREMENTS

Section 240.400 Record Keeping

- a) Every contractor, including subcontractors, shall maintain records for all individuals performing services for that contractor or subcontractor, regardless of how those individuals are classified. These records shall be maintained for a period of three years unless the records relate to an ongoing investigation or enforcement action under the Act, in which case the records must be maintained until their destruction is authorized by the Department or by court order.
- b) Records to be maintained by the contractor shall include all documents related to, or tending to establish the nature of, the relationship between the contractor and individuals performing services. Records that must be maintained for each individual performing services for the contractor include, but are not limited to:

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

- 1) their names, addresses, phone numbers, Social Security numbers, Individual Tax Identification Numbers and Federal Employer Identification Numbers;
- 2) the type of work performed and the total number of days and hours worked;
- 3) the method, frequency and basis on which wages were paid or payments were made;
- 4) all invoices, billing statements or other payment records, including the dates of payments, and any miscellaneous income paid or deductions made;
- 5) copies of all contracts, agreements, applications and policy or employment manuals; and
- 6) any federal and State tax documents.

Section 240.410 Notices

- a) *An entity for whom one or more individuals perform services who are not classified as employees under Section 10 of the Act shall post and keep posted, in a conspicuous place on each job site where those individuals perform services and in each of its offices, a notice in English, Spanish and Polish, prepared by the Department, summarizing the requirements of the Act. [820 ILCS 185/15(b)]*
- b) Where it is not practicable to post a notice on the job site, notices shall be provided to all individuals performing services who are not classified as employees.

SUBPART E: FINAL DETERMINATIONS

Section 240.500 Decision and Notice Following Investigation

- a) If, at the conclusion of an investigation, the Department determines that no violation of the Act or this Part has occurred, the complaint shall be dismissed.

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

- b) If, at the conclusion of the investigation, the Department determines that a violation of the Act or this Part has occurred, the Department may seek remedies as set forth in Section 240.510.
- c) Whenever a decision is made under this Section, the Department shall provide a written notice to all parties. The notice shall include a statement of the right to bring a civil action as provided for in Section 60 of the Act.
- d) The Department will seek voluntary compliance by the contractor for any violations of the Act. If the contractor fails to pay the penalties or comply with the remedies specified in the notice within 30 calendar days, the Department may within 180 days refer the matter to the Attorney General for enforcement.
- e) Either party may seek review of the Department's final determination by filing with the Director a written request for an informal conference. The request must be received by the Director within 15 calendar days after the issuance of the final determination.
 - 1) The informal conference will be conducted by the Director and/or the Department's Chief Legal Counsel. During that conference, the party seeking review may present written or oral information and arguments as to why the Department's final determination should be amended or reconsidered.
 - 2) The Director and/or the Department's Chief Legal Counsel shall consider the information and arguments presented and shall issue a written decision advising all parties of the outcome of the informal conference.

Section 240.510 Remedies Upon Finding of a Violation

When the Department concludes, based upon its investigation, that a violation of the Act or this Part has occurred, the Department may:

- a) Seek a voluntary settlement agreement that eliminates the unlawful practice and provides appropriate relief;
- b) Recommend the commencement of a civil action;
- c) Issue a cease and desist order;

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

- d) Assess civil penalties as set forth in Section 40 of the Act;
- e) Collect the amount of any wages, salary, employment benefits or compensation denied or lost to the individual;
- f) Place the contractor on the debarment list pursuant to Section 42 of the Act; and/or
- g) Take any other reasonable action to eliminate the unlawful practice and/or remedy the effect of the violation.

Section 240.520 Civil Penalties

- a) A contractor that violates any of the provisions of the Act or this Part shall be subject to a civil penalty not to exceed \$1,500 for each violation found in the first audit by the Department. Following a first audit, a contractor shall be subject to a civil penalty not to exceed \$2,500 for each repeat violation found by the Department within a five-year period.
- b) Each violation of the Act, for each person and for each day the violation continues, shall constitute a separate and distinct violation.

Section 240.530 Debarments

For any second or subsequent violations determined by the Department within five years after a previous violation, the Department shall add the contractor to a debarment list that will be posted on its official website. The Department shall give notice to the contractor of its placement on the list. No State contract shall be awarded to any contractor placed on the debarment list until four years have elapsed from the date of the last violation.

Section 240.540 Criminal Penalties

- a) Any contractor or individual who willfully violates the Act or this Part, or obstructs the Director of Labor or his or her representatives in the enforcement of the Act, shall be subject to penalties up to double the statutory amount, punitive damages, and/or criminal penalties as set forth in Section 45 of the Act.

DEPARTMENT OF LABOR

NOTICE OF ADOPTED RULES

- b) Anyone attempting to induce an individual to waive any provision of the Act shall be guilty of a Class C misdemeanor.

Section 240.550 Retaliation

A contractor shall not retaliate against any person for exercising his/her rights under the Act. Any such retaliation shall subject the contractor to civil penalties, a private cause of action, or both, as set forth in Section 55 of the Act.

Section 240.560 Referral to Other Agencies

If the Department of Labor determines that a contractor has misclassified individuals as independent contractors in violation of the Act, the Department shall notify the Department of Employment Security, the Department of Revenue, the Office of the State Comptroller, and the Illinois Workers' Compensation Commission as set forth in Section 75 of the Act.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Interstate Common Pools
- 2) Code Citation: 11 Ill. Adm. Code 302
- 3) Section Number: 302.40 Adopted Action:
New
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Amendment: August 1, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporation by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 7255; May 9, 2008
- 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 letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of rulemaking: This rulemaking will permit Illinois racetracks to participate in multi-track events using a shared carryover wagering pool. The racetracks involved could be multiple Illinois racetracks or out-of-state racetracks. The supplemented carryover pools will generate additional wagering interest resulting in increased handle, purses, and state revenue.
- 16) Information and questions regarding this adopted amendment shall be directed to:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULESPART 302
INTERSTATE COMMON POOLS

Section	
302.10	General
302.20	Illinois as the Guest State
302.30	Illinois as the Host <u>TrackState</u>
<u>302.40</u>	<u>Shared Carryover Pools</u>

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

SOURCE: Emergency rules adopted at 19 Ill. Reg. 8002, effective June 5, 1995, for a maximum of 150 days; emergency expired November 2, 1995; adopted at 19 Ill. Reg. 13922, effective October 1, 1995; amended at 28 Ill. Reg. 7117, effective May 10, 2004; emergency amendment at 32 Ill. Reg. 7426, effective May 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 13522, effective August 1, 2008.

Section 302.40 Shared Carryover Pools

- a) With the approval of the State Director of Mutuels and at least 30 days notice, an organization licensee may participate with other Illinois racetracks or out of state racetracks in a shared carryover pool on any wagering pool that provides for a carryover amount.
- b) The carryover pools generated by the wagering activity on races conducted by the organization licensee may be carried in to another racetrack's pool, and the carryover pools generated by the wagering activity on races conducted on other racetrack's pools may be carried in to the pools of the organization licensee.

(Source: Added at 32 Ill. Reg. 13522, effective August 1, 2008)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Superfecta
- 2) Code Citation: 11 Ill. Adm. Code 311
- 3) Section Number: 311.20 Adopted Action:
Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Amendment: August 1, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 7027; May 2, 2008
- 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 letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of Amendment: This rulemaking permits a 100% carryover of the pool in the event there are no winning wagers. Currently racetracks are only permitted to pay out a minor portion of the daily pool to those who select the most winners.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Mickey Ezzo
Illinois Racing Board

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULESPART 311
SUPERFECTA

Section	
311.10	Superfecta
311.20	Pool Distribution
311.25	Scratches
311.30	Dead Heats
311.35	Minimum Fields
311.40	Entries

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

SOURCE: Adopted at 18 Ill. Reg. 7440, effective May 8, 1994; amended at 19 Ill. Reg. 6663, effective May 1, 1995; amended at 26 Ill. Reg. 4903, effective March 20, 2002; amended at 26 Ill. Reg. 12357, effective August 1, 2002; emergency amendment at 26 Ill. Reg. 14702, effective September 16, 2002, for a maximum of 150 days; emergency expired February 12, 2003; emergency amendment at 26 Ill. Reg. 16854, effective November 15, 2002, for a maximum of 150 days; emergency expired April 13, 2003; amended at 28 Ill. Reg. 7121, effective May 10, 2004; amended at 29 Ill. Reg. 14024, effective September 1, 2005; amended at 30 Ill. Reg. 2654, effective February 21, 2006; amended at 30 Ill. Reg. 10463, effective June 1, 2006; amended at 31 Ill. Reg. 8522, effective June 1, 2007; amended at 32 Ill. Reg. 13525, effective August 1, 2008.

Section 311.20 Pool Distribution

The organization licensee may choose to distribute pools in accordance with ~~either~~ subsection (a), ~~or~~ (b) or (c). The organization licensee must give the Board 30 days notice if it chooses to distribute pools under subsection (b) or subsection (c), including the exact percentages it will use to determine minor and major pools. The racing program shall indicate when the method described in subsection (b) or subsection (c) is being used for a meet.

- a) The net Superfecta pool shall be distributed to winning wagers in the following

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

precedence, based upon the official order of finish:

- 1) As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but, if there are no such wagers, then
- 2) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but, if there are no such wagers, then
- 3) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but, if there are no such wagers, then
- 4) As a single price pool to those whose combination correctly selected the first place betting interest only; but, if there are no such wagers, then
- 5) The entire pool shall be refunded on Superfecta wagers for that contest.

b) Distribution of Winnings

- 1) The net Superfecta pool shall be distributed to winning wagers in the following precedence, based on the official order of finish:
 - A) As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but, if there are no such wagers, then
 - B) The net pool will be divided into two separate pools. The major pool of the net pool shall be paid as a carryover pool into the next regularly scheduled Superfecta race. The remaining minor pool shall be paid as a Superfecta consolation pool, which will be equally divided among those ticket holders who correctly select the first three betting interests; but, if there are no such wagers, then
 - C) The Superfecta consolation pool will be divided among those ticket holders who correctly select the first two interests; but, if there are no such wagers, then

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- D) The Superfecta consolation pool will be divided among those ticket holders who correctly select the first betting interest; but, if there are no such wagers, then
 - E) The entire net pool shall become a carryover pool into the next regularly scheduled Superfecta race.
- 2) On the last Superfecta race on the final day of the meeting, the net pool shall be redistributed using the method described in subsection (a).
- c) [Distribution of Winnings](#)
- 1) [The net superfecta pool shall be distributed to winning wagers in the following precedence, based on the official order of finish:](#)
 - A) [As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but, if there are no such wagers, then](#)
 - B) [The entire pool shall be paid as a carryover pool into the next regularly scheduled superfecta race.](#)
 - 2) [On the last superfecta race on the final day of the meeting, the net pool shall be redistributed using the method described in subsection \(a\).](#)
- de) If fewer than four betting interests finish and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest shall be ignored.

(Source: Amended at 32 Ill. Reg. 13525, effective August 1, 2008)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Exacta Double
- 2) Code Citation: 11 Ill. Adm. Code 320
- 3) Section Number: 320.20 Adopted Action:
Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: August 1, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 7032; May 2, 2008
- 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 letter issued by JCAR? No agreements were necessary.
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking permits a 100% carryover of the pool if the exact winning wager is not selected. Currently, racetracks are only permitted to pay winners of the first exacta or winners of the second exacta in a profit split scenario when no one selects both exactas. Carryover pools increase handle, State revenue and horsemen's purses.
- 16) Information and questions regarding this adopted amendment shall be directed to:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULESPART 320
EXACTA DOUBLE

Section	
320.10	General
320.20	Pool Distribution
320.30	Dead Heats
320.40	Scratches
320.50	Races Cancelled

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

SOURCE: Adopted at 30 Ill. Reg. 14580, effective September 1, 2006; amended at 32 Ill. Reg. 13530, effective August 1, 2008.

Section 320.20 Pool Distribution

The organization licensee may choose to distribute pools in accordance with either subsection (a) or (b). The organization licensee must notify the Board, 30 days prior to the beginning of its race meet, of which method it will use to distribute pools under this Section.

- a) The net exacta double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish.
 - 1a) As a single price pool to those who selected, in exact order, the first two finishers in each of the two exacta double contests; but, if there are no such wagers, then
 - 2b) As a profit split pool to those who selected, in exact order, the first two finishers in either of the two exacta double contests; but, if there are no such wagers on one of those contests, then

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 3e) As a single price pool to those who selected, in exact order, the first two finishers in the one covered exacta double contest; but, if there are no such wagers, then
- 4d) The entire pool shall be refunded on exacta double wagers for those contests.
- b) The net exacta double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

 - 1) As a single price pool to those who selected, in exact order, the first two finishers in each of the two exacta double contests; but, if there are no such wagers, then
 - 2) The entire net pool shall be paid as a carryover pool into the next regularly scheduled exacta double race.

(Source: Amended at 32 Ill. Reg. 13530, effective August 1, 2008)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System
- 2) Code Citation: 80 Ill. Adm. Code 1650
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1650.110	Amended
1650.180	Amended
1650.181	Repealed
1650.182	Amended
1650.201	Amended
1650.202	Amended
1650.209	Repealed
1650.211	Amended
1650.240	Amended
1650.250	Amended
1650.260	Amended
1650.280	Amended
1650.315	New
1650.340	Amended
1650.345	Amended
1650.346	Amended
1650.380	Repealed
1650.391	Amended
1650.392	Amended
1650.440	Repealed
1650.450	Amended
1650.470	Amended
1650.480	Amended
1650.510	Repealed
1650.550	Amended
1650.570	Amended
1650.590	Amended
1650.635	Amended
1650.640	Amended
1650.650	Amended
1650.1118	Amended
1650.1201	Amended
1650.1202	Amended

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/16]
- 5) Effective Date of Amendments: August 6, 2008
- 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 amendments, including any material incorporated by reference, is on file in the Teachers' Retirement System's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 11, 2008; 32 Ill. Reg. 5972.
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The System has incorporated the nonsubstantive changes recommended by the Joint Committee on Administrative Rules (JCAR).
- 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 these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The rulemaking represents a comprehensive staff review of TRS administrative rules to ensure consistency with current law and to accurately reflect current practice. The adopted revisions are technical, housekeeping corrections and are not substantive in nature.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Cynthia M. Fain, Sr. Asst. General Counsel
Teachers' Retirement System
2815 West Washington

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

Springfield, Illinois 62794-9253

217/753-0375

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

PART 1650

THE ADMINISTRATION AND OPERATION OF THE
TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section

1650.10 Annual Financial Report (Repealed)

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section

1650.110 Membership Records
1650.120 Claims Records (Repealed)
1650.130 Individual Accounts (Repealed)
1650.140 Ledger and Accounts Books (Repealed)
1650.150 Statistics (Repealed)
1650.160 Confidentiality of Records
1650.180 Filing and Payment Requirements
1650.181 Early Retirement Incentive Payment Requirements ([Repealed](#))
1650.182 Waiver of Additional Amounts Due
1650.183 Definition of Employer's Normal Cost

SUBPART C: FILING OF CLAIMS

Section

1650.201 Disability Benefits – Application Procedure; [Effective Date](#)
1650.202 Disability ~~and Occupational Disability~~ Benefits – Definitions
1650.203 Disability Retirement Annuity – Definitions
1650.204 Gainful Employment – Consequences
1650.205 Medical Examinations and Investigation of Disability Claims
1650.206 Physician Certificates
1650.207 Disability Due to Pregnancy
1650.208 Disability Payments
1650.209 Computation of Annual Salary When Member Has Different Semester Salary

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

	Rates (Repealed)
1650.210	Claim Applications
1650.211	Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
1650.220	Reclassification of Disability Claim (Repealed)
1650.221	When Member Becomes Annuitant
1650.222	Death Out of Service
1650.230	Medical Examinations and Investigations of Claims (Repealed)
1650.240	Refunds; Impermissible Refunds ; Canceled Service; Repayment
1650.250	Death Benefits
1650.260	Evidence of Age
1650.270	Reversionary Annuity – Evidence of Dependency
1650.271	Evidence of Parentage
1650.272	Eligible Child Dependent By Reason of a Physical or Mental Disability
1650.280	Evidence of Marriage
1650.290	Offsets

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section	
1650.301	Early Retirement Without Discount – Return to Teaching from a Break in Service
1650.310	Effective Date of Membership
1650.315	Verify Service Credit
1650.320	Method of Calculating Service Credits
1650.325	Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330	Duplicate Service Credit
1650.335	Unreported Regular Service Credit and Earnings
1650.340	Service Credit for Leaves of Absence
1650.341	Service Credit for Involuntary Layoffs
1650.345	Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346	Service Credit for Periods Away From Teaching Due to Adoption
1650.350	Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.351	Employer Contribution for Excess Sick Leave
1650.355	Purchase of Optional Service – Required Minimum Payment
1650.356	Payroll Deduction Program (Repealed)
1650.357	Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360	Settlement Agreements and Judgments
1650.370	Calculation of Average Salary (Renumbered)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 1650.380 Definition of Actuarial Equivalent ([Repealed](#))
- 1650.390 Independent Contractors
- 1650.391 Optional 2.2 Upgrade of Earned and Credited Service
- 1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section

- 1650.410 Return of Contributions for Duplicate or Excess Service
- 1650.415 Return of Optional Increase in Retirement Annuity Contributions
- 1650.416 Optional Increase in Retirement Annuity – 1% Contribution Reduction
- 1650.420 Interest on Deficiencies ([Repealed](#))
- 1650.430 Installment Payments ([Repealed](#))
- 1650.440 Small Deficiencies, Credits or Death Benefit Payments ([Repealed](#))
- 1650.450 [Compensation Recognized As "Salary"](#) ~~Definition of Salary~~
- 1650.451 Reporting of Conditional Payments
- 1650.460 Calculation of Average Salary
- 1650.470 Rollover Distributions
- 1650.480 Rollovers to the System
- 1650.481 Employer Contribution Required for Salary Increases in Excess of 6%
- 1650.482 Contracts and Collective Bargaining Agreements – Loss of Exemption from Employer Contributions
- 1650.483 Employer Contributions for Salary Increases in Excess of 6% and Excess Sick Leave Exemption from Contributions
- 1650.484 Members Not Covered by Collective Bargaining Agreements or Employment Contracts
- 1650.485 Employer Contributions for Salary Increases in Excess of 6% – Receipt of Bill

SUBPART F: ~~RULES GOVERNING~~ ANNUITANTS AND BENEFICIARIES

Section

- 1650.505 Beneficiary ([Repealed](#))
- 1650.510 Re-entry Into Service ([Repealed](#))
- 1650.520 Suspension of Benefits
- 1650.530 Power of Attorney
- 1650.540 Conservators/Guardians
- 1650.550 Presumption of Death
- 1650.560 Benefits Payable on Death
- 1650.561 Valid Beneficiary Designations

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

1650.570	Survivors' Benefits
1650.571	Payment of Monthly Survivor Benefits to a Trust
1650.575	Full-time Student – Receipt of Survivors Benefits Until Age 22
1650.580	Evidence of Eligibility
1650.590	Comptroller Offset
1650.595	Overpayments

SUBPART G: ATTORNEY GENERALS' OPINION

Section

1650.605	Policy of the Board Concerning Attorney Generals' Opinion (Repealed)
----------	--

SUBPART H: ADMINISTRATIVE REVIEW

Section

1650.610	Staff Responsibility
1650.620	Right of Appeal
1650.630	Form of Written Request
1650.635	Presiding Hearing Officer – Duties and Responsibilities
1650.640	Prehearing Procedure
1650.641	Claims Hearing Committee Hearing Packet
1650.650	Hearing Procedure
1650.660	Rules of Evidence (Repealed)

SUBPART I: AMENDMENTS TO BYLAWS AND RULES

Section

1650.710	Amendments
----------	------------

SUBPART J: RULES OF ORDER

Section

1650.810	Parliamentary Procedure
----------	-------------------------

SUBPART K: FREEDOM OF INFORMATION ACT REQUESTS

Section

1650.910	Summary and Purpose
1650.920	Definitions

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

1650.930	Submission of Requests
1650.940	Form and Content of FOIA Requests
1650.950	Appeal of a Denial
1650.960	Executive Director's Response to Appeal
1650.970	Response to FOIA Requests
1650.980	Inspection of Records at System Office
1650.990	Copies of Public Records
1650.995	Materials Available Under Section 4 of FOIA

SUBPART L: BOARD ELECTION PROCEDURES

Section	
1650.1000	Nomination of Candidates
1650.1001	Elections Date/Election Day – Defined
1650.1010	Petitions
1650.1020	Eligible Voters
1650.1030	Election Materials
1650.1040	Marking of Ballots
1650.1050	Return of Ballots
1650.1060	Observation of Ballot Counting
1650.1070	Certification of Ballot Counting
1650.1080	Challenges to Ballot Counting
1650.1090	Special Election to Fill Un-Expired Term of Elected Trustee

SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section	
1650.1110	Definitions
1650.1111	Requirements for a Valid Qualified Illinois Domestic Relations Order
1650.1112	Requirements for a Valid QILDRO Calculation Order
1650.1113	Required Forms
1650.1114	Filing a QILDRO or a Calculation Order with the System
1650.1115	Benefits Affected by a QILDRO
1650.1116	Effect of a Valid QILDRO
1650.1117	QILDROs Against Persons Who Became Members Prior to July 1, 1999
1650.1118	Alternate Payee's Address
1650.1119	Electing Form of Payment
1650.1120	Automatic Annual Increases
1650.1121	Reciprocal Systems QILDRO Policy Statement (Repealed)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 1650.1122 Providing Benefit Information for Divorce Purposes
- 1650.1123 Suspension and Expiration of a QILDRO
- 1650.1124 Income Tax Reporting
- 1650.1125 Lump-Sum Death Benefit Allocation to Alternate Payee

SUBPART N: PAYROLL DEDUCTION PROGRAM

Section

- 1650.1200 Payroll Deduction Program Guidelines
- 1650.1201 Employer Responsibility Under the Payroll Deduction Program ~~Upon Execution of a Payroll Deduction Agreement~~
- 1650.1202 Payroll Deduction Agreements – Suspensions and Terminations
- 1650.1203 Payroll Deduction Program – Full Time Employment Defined
- 1650.1204 Payroll Deduction Program – Disability Defined
- 1650.1205 Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance

SUBPART O: RETIREMENT BENEFITS

Section

- 1650.2900 Excess Benefit Arrangement

AUTHORITY: Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5/Arts. 1 and 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998;

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective January 27, 2000; amended at 24 Ill. Reg. 10300, effective June 26, 2000; amended at 25 Ill. Reg. 203, effective December 22, 2000; amended at 26 Ill. Reg. 2758, effective February 11, 2002; amended at 26 Ill. Reg. 11476, effective July 11, 2002; amended at 27 Ill. Reg. 1668, effective January 17, 2003; amended at 27 Ill. Reg. 9209, effective May 28, 2003; amended at 28 Ill. Reg. 10055, effective June 29, 2004; amended at 29 Ill. Reg. 1546, effective January 14, 2005; amended at 29 Ill. Reg. 13244, effective August 9, 2005; amended at 30 Ill. Reg. 194, effective December 23, 2005; amended at 30 Ill. Reg. 472, effective December 21, 2005; amended at 30 Ill. Reg. 11728, effective June 23, 2006; amended at 30 Ill. Reg. 17525, effective October 18, 2006; amended at 31 Ill. Reg. 10688, effective July 13, 2007; amended at 32 Ill. Reg. 4073, effective February 28, 2008; amended at 32 Ill. Reg. 7979, effective May 6, 2008; amended at 32 Ill. Reg. 13534, effective August 6, 2008.

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section 1650.110 Membership Records

- a) Every member shall provide information with respect to his or her date ~~and place~~ of birth, Social Security number and home address including a facsimile of his or her signature.
- b) Creditable service and salary is established by submission of annual reports (filed by the member's employer), an affidavit of a school official based upon existing school records, or copies of contracts, board minutes, memoranda, payroll records and other materials as requested by the System for assistance in making the necessary determinations. If the preceding documentation is unavailable, the member shall submit at least one of the following types of documentation in the following order of priority:
 - 1) Certified records of the Chief Educational Officer of the County in which the member was employed.
 - 2) Income tax records for the entire time period showing employment as a

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

teacher.

- 3) Certified records of another retirement system.
- 4) Other contemporaneous documentation, ~~such as corroborating affidavits, that are based upon actual knowledge and are sufficiently specific as to times, dates, places and surrounding circumstances so that the proof of service submitted to the System that~~ reliably supports documents the service credit to be established while eliminating the possibility of mistake or fraud.
- e) ~~Whenever the salary information for a period of creditable service is unavailable, the System shall establish a salary (and assess contributions at the applicable statutory rate) which is equal to the member's first full-time salary paid as a contributing member of the System succeeding the time period in question. The System shall convert the first full-time salary paid succeeding the time period in question to its part-time equivalent, whenever the unavailable salary information is for part-time employment.~~

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.180 Filing and Payment Requirements

- a) All employers are required to forward member contributions and amounts required under [40 ILCS 5/16-158(c)] to the System after the close of each pay period or bi-monthly, if a State Institution, and to file an annual report of earnings with the System on or before August 15 of each year. Failure to forward contributions or to file reports shall result in additional amounts due as prescribed by Section 16-155 of the Illinois Pension Code (the Act) [40 ILCS 5/16-155].
- b) In determining the additional amount due for late filing of the employer's annual report of earnings as prescribed by Section 16-155(c) of the Act, the postmark date is deemed to be the date of receipt. If the postmark is made other than by the U.S. Post Office, such as a postage meter, the postmark must show a date on or before the date the material was to be received in an office of the System and must be received no later than four working days after the date shown.
- c) The employer's annual report of earnings shall be properly completed and report creditable earnings in accordance with applicable laws and rules. Any report

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

failing to materially conform with this requirement shall be returned to the employer and shall not be deemed received until properly corrected and returned to the System.

- d) Envelopes must be properly addressed to the System if the reports are to be considered filed timely, with correct postage paid by the employer. ~~The System may accept contributions via electronic transfer.~~
- e) ~~Employers Beginning with the Employers Annual Report of Earnings due August 15, 2000, employers~~ with 50 or more contributing members are required to file the report via the System's automated reporting system.
- f) ~~All Effective July 1, 2003, all~~ contributions and payments required to be remitted to the System by participating employers shall be forwarded to the System via electronic means.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.181 Early Retirement Incentive Payment Requirements (Repealed)

- a) ~~All employers who elect to pay the required employer's early retirement contribution in installments within a period of 5 years as provided for in Section 16-133.4 or Section 16-133.5 of the Act are required to forward such employer contributions to the System on a quarterly basis for five years. For regular retirements under Section 16-133.4, the first quarterly payment is due on January 15, 1994 and on the 15th of the month quarterly thereafter. For regular retirements under Section 16-133.5 and delayed retirements under Section 16-133.4, the first quarterly payment is due on October 15, 1994 and on the 15th of the month quarterly thereafter. For delayed retirements under Section 16-133.5, the first quarterly payment is due on October 15, 1995 and on the 15th of the month quarterly thereafter. Failure to forward employer contributions as required shall result in the assessment of additional amounts due.~~
- b) ~~If the employer fails to forward such required employer contributions within the time permitted by the payment schedule, the System shall assess and notify the employer of an additional amount due, equal to a quarterly rate of 1.43% of the amount remaining unpaid by the employer on the date due.~~
- e) ~~Employers paying through a quarterly payment plan shall be assessed an~~

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

~~additional quarterly rate of 1.43% on the employer's remaining unpaid quarterly balance in every succeeding payment period the employer fails to pay any past due amounts.~~

- d) ~~Employers paying through a tailored payment plan shall be assessed an additional quarterly rate of 1.43% for each succeeding quarter in which the employer fails to pay any past due amounts. Quarters shall be determined based on the date due.~~
- e) ~~For purposes of administering the additional amounts due, based upon the employer's failure to make the employer's early retirement contribution under Section 16-133.4 or Section 16-133.5, the contribution must be received by the date due, as established by the System. Contributions shall be credited to the employer on the date of receipt by the System.~~
- f) ~~The System may design a tailored payment plan, which must be approved by the Board of Trustees to be effective, that provides for the payment of the employer's contribution in unequal installments over a period of no more than five (5) years from the date of retirement.~~
 - 1) ~~A tailored payment plan is only available to employers who can demonstrate special circumstances that will result in an undue economic hardship to the employer, without a tailored payment plan, and to employers who seek to accelerate payment of the balance due. Employer convenience and general economic advantage to the employer will not be sufficient to overcome the Board of Trustees' fiduciary responsibility to ensure sound fiscal management of the System.~~
 - 2) ~~To apply for a tailored payment plan the employer must provide to the System's Special Payment Option Committee ("Committee") the following information:~~
 - A) ~~A statement of the special circumstances which justify the tailored payment plan, certified by the local superintendent;~~
 - B) ~~A proposal as to how a tailored payment plan can meet the special circumstances enumerated;~~
 - C) ~~Notice as to whether the employer has been certified as in financial difficulty by the State Board of Education, pursuant to 105 ILCS~~

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

~~5/1A-8;~~

- ~~D) A list of factors that would have a strong negative impact on the employer's ability to enter into a payment plan involving equal quarterly payments over five years.~~
- 3) ~~The criteria the Committee will consider in approving a request for a tailored payment plan includes, but may not be limited to:~~
 - ~~A) The special circumstances certified as necessitating a tailored payment plan;~~
 - ~~B) What type of tailored payment would best meet the special circumstances identified by the employer, including the proposal made by the employer;~~
 - ~~C) Whether the employer has been certified as in financial difficulty by the State Board of Education, pursuant to 105 ILCS 5/1A-8;~~
 - ~~D) Any additional factors that would have a strong negative impact on the employer's ability to enter into a payment plan involving equal quarterly payments over five years;~~
 - ~~E) The System's fiduciary responsibility to ensure sound fiscal management of the System for the benefit of all participants and beneficiaries.~~
- 4) ~~If a request for a tailored payment plan is approved, the Committee will design a tailored payment plan. The employer's proposal as to how a tailored payment plan can meet their special circumstances will be considered in designing the plan, but will not be binding on the Committee. All tailored payment plans must meet the requirements of 40 ILCS 5/16-133.5, for payment in full of all employer contributions within five years from the date of retirement. The Committee will communicate with the employer in working out the design of the tailored payment plan. The Committee's final recommendation on the design of the tailored payment plan will be promptly communicated to the employer. Any employer whose request for a tailored payment plan is not approved by the Committee may appeal the Committee's determination under the~~

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

~~provisions of the administrative review procedures as specified in Title 80, Illinois Administrative Code.~~

- ~~5) The Committee's final recommendation on the design of the tailored payment plan will be presented to the Board of Trustees for approval at its next scheduled Board Meeting. Any employer whose tailored payment plan is not approved by the Board of Trustees may appeal the Board's determination under the provisions of the administrative review procedures as specified in Subpart H of this Part.~~
- ~~6) If a tailored payment plan is pending and has not yet been acted upon by the Board of Trustees, additional amounts due will be suspended by the System until such time as the Board of Trustees has acted on the tailored payment plan.~~

(Source: Repealed at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.182 Waiver of Additional Amounts Due

- a) The System may waive additional amounts due upon good cause shown when:
 - 1) The delinquency is attributable to circumstances commonly known as an "act of God", such as fire, flood, tornado and the like; or
 - 2) The delinquency is attributable to other administrative reasons where no employer negligence is involved; the employer's record indicates a history of good faith and consistent compliance with the System's contribution and reporting requirements; and the employer remits the annual report of earnings and/or required contributions within a reasonable time as determined by the System taking into consideration the reason for delinquency and the period of delinquency.
- b) Circumstances purporting to justify a waiver of the additional amounts due must be certified in writing to the System by ~~an authorized representative~~ ~~the Superintendent of the school district or chief operating officer~~ of the employer requesting a waiver.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

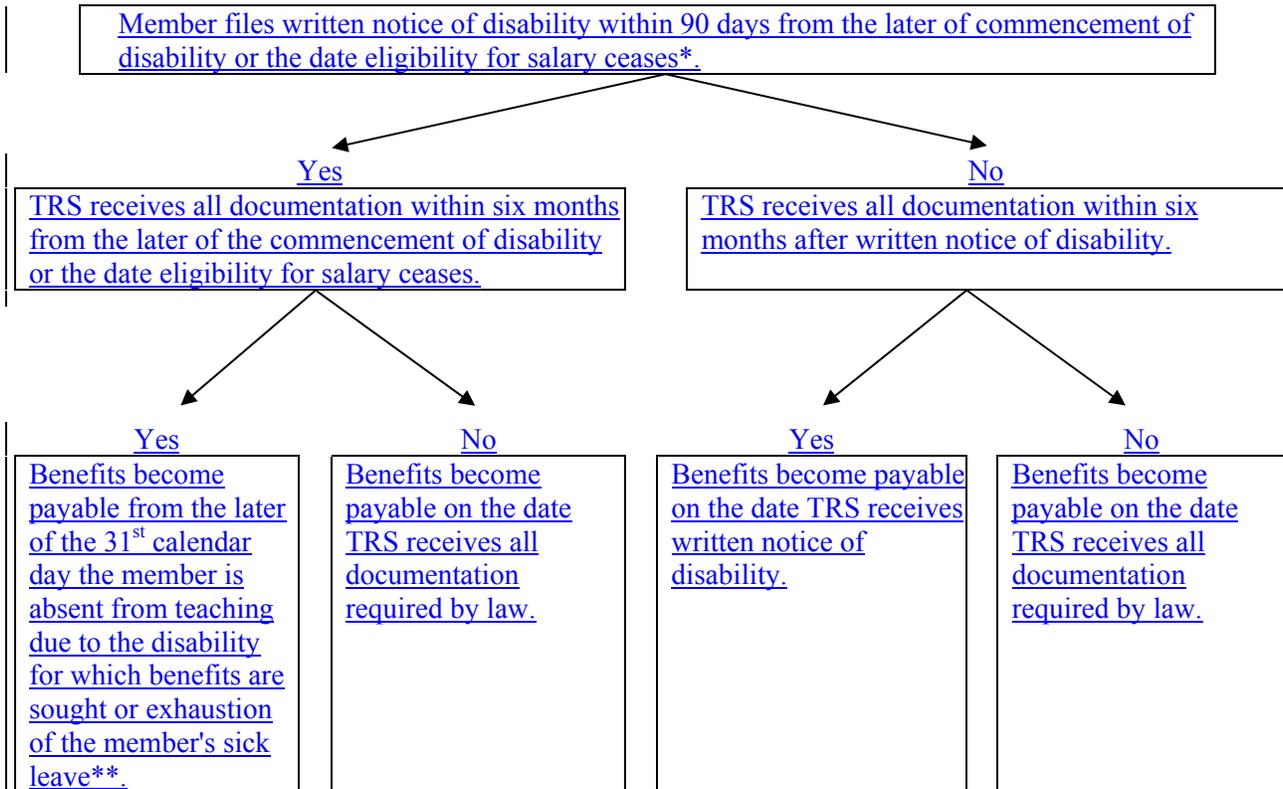
NOTICE OF ADOPTED AMENDMENTS

SUBPART C: FILING OF CLAIMS

Section 1650.201 Disability Benefits – Application Procedure; Effective Date

- a) Any ~~member~~individual claiming a disability benefit under 40 ILCS 5/16-149 ~~or~~, 16-149.1 ~~or 16-149.2~~ shall begin the process by filing a written notice with the System ~~by letter or telefax~~.
- b) For purposes of determining when nonoccupational disability benefits become payable under 40 ILCS 5/16-149 and 16-149.1, the following shall apply: if a member files his or her written notice of disability within 90 days after the commencement of disability or the date eligibility for salary ceases, benefits shall be payable from the date the disability commenced or eligibility for salary ceased.

EFFECTIVE DATE



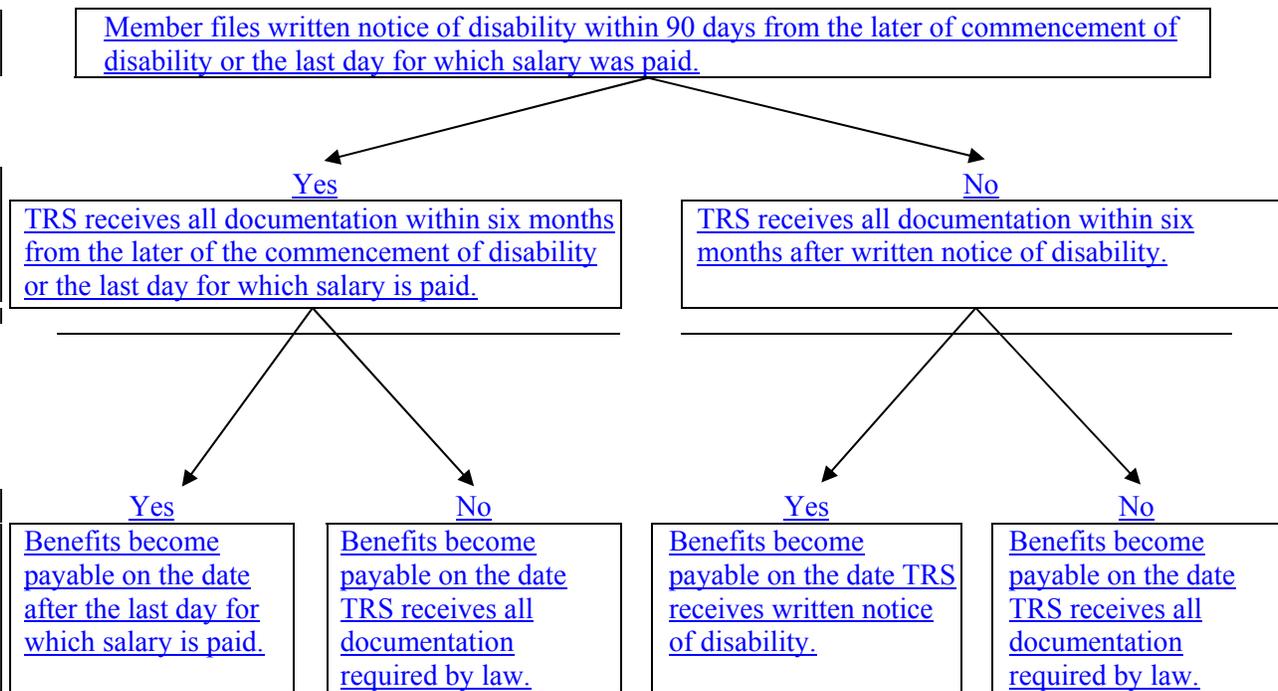
TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- * Eligibility for salary ceases is equal to the later of the date last worked plus 31 days or when sick leave days are completely exhausted
- ** If sick leave is not paid by the employer, the date sick leave would have been exhausted had the member been paid by the employer.

c) For purposes of determining when occupational disability benefits become payable under 40 ILCS 5/40 ILCS 5/16-149 and 16-149.1, the following shall apply: if a member files his or her written notice of disability later than 90 days from the commencement of disability or the date eligibility for salary ceases, benefits may be payable from the member's date of application subject to provisions of subsection (d)(3).

EFFECTIVE DATE



d) Disability benefits under the provisions of 40 ILCS 5/16-149 shall become payable the later of:

- 1) the 31st calendar day the member is absent from teaching due to the disability for which benefits are sought;

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- ~~2) exhaustion of the member's sick leave, or if sick leave is not paid by the employer, the date upon which the sick leave would have been exhausted had the member been paid by the employer;~~
- ~~3) the date the System receives written notification of disability if more than 90 days have elapsed from the later of:
 - ~~A) commencement of disability; or~~
 - ~~B) the last day for which salary is payable including payment for sick leave days, whether or not the sick leave days are actually paid for by the employer; or~~~~
- ~~4) the date on which all documentation required under 40 ILCS 5/16-149 is received by the System, if the receipt of the documentation is more than six months after the date notice is filed pursuant to subsection (a).~~
- e) Occupational disability benefits under the provisions of 40 ILCS 5/16-149.1 shall become payable from the later of:
 - 1) the date after the last day for which salary is paid;
 - 2) the date the System receives written notification of disability if more than 90 days have elapsed from the later of:
 - A) the commencement of the disability; or
 - B) the last day for which salary is paid; or
 - 3) the date on which all documentation required under 40 ILCS 5/16-149 is received by the System, if the receipt of the documentation is more than six months after the date notice is filed pursuant to subsection (a).
- df) When a memberan individual claiming disability benefits is employed under an agreement for less than 12 full months, neither the 31-day waiting period nor the utilization of sick leave requirement, as contained in the definition of "date eligibility for salary ceases" in Section 1650.202, can be~~subsection (d), is~~ satisfied during periods not covered by the agreement. For purposes of granting disability

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

benefits, ~~it will be presumed that~~ all employment agreements are presumed to cover one full school term and are automatically renewable at the commencement of the next school term. Satisfactory evidence must be presented of an employment agreement covering a ~~longer~~ period longer than a full school term (e.g., 10, 11 or 12 months).

- eg) Whenever a member becomes ineligible to receive a ~~non-occupational disability~~ or occupational disability benefit due to gainful employment but is subsequently disabled for the same cause within 90 days after the member's or annuitant's last date of eligibility for benefits, benefits shall be reinstated at the previous benefit rate upon written application. Benefits shall commence the day following the last day the member is eligible to receive salary. If more than 90 days have elapsed, benefits shall be reinstated based on the greater of the member's most recent annual contract salary rate at the time the disability benefit becomes payable or the member's annual contract rate on the date the disability commenced.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.202 Disability ~~and Occupational Disability~~ Benefits – Definitions

For purposes of non-occupational disability benefits under 40 ILCS 5/16-149 and occupational disability benefits under 40 ILCS 5/16-149.1, the following terms and phrases shall have the following definitions:

"Commencement of disability" shall mean the date upon which a member is determined by required medical examination to be "incapacitated to perform the duties of his or her position as a teacher" as defined in this Section.

"Date of application" shall mean the day upon which the System receives in its business offices the written or telefax notice required in this Section notifying the System the member is applying for disability benefits under the provisions of 40 ILCS 5/16-149 or 16-149.1.

"Date eligibility for salary ceases" shall mean the last date worked plus 31 days, or the date on which all of the member's sick leave is exhausted, whichever occurs later.

"Gainful employment" shall mean current employment from which a member realizes "earned income" as that term is defined in section 32(c)(2) of the Internal

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

Revenue Code in excess of ~~\$833 in any month or~~ \$10,000 in any calendar year or the pro rata share thereof if less than a calendar year, while in receipt of a disability or occupational disability benefit.

"Incapacitated to perform the duties of his or her position as a teacher" shall mean the physical or mental inability to perform substantially all of the member's assigned job duties at the commencement of disability.

"Licensed physician" shall mean any individual licensed by the state in which he or she practices medicine. All reports submitted to the System shall include the registration number of the physician submitting the report.

"Teacher", for purposes of 40 ILCS 5/16-149(a) and 16-149.1(a), shall mean employment in any equivalent position set forth in 40 ILCS 5/16-106 in this State or another state, territory or by or under the auspices of the United States government.

"Upon application of a member" shall mean the filing of a written or telefax notice by or on behalf of a member notifying the System that the member is applying for disability benefits under the provisions of 40 ILCS 5/16-149 or 16-149.1.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.209 Computation of Annual Salary When Member Has Different Semester Salary Rates (Repealed)

~~For purposes of 40 ILCS 5/16-149 and 16-149.1, if a member has different semester salary rates during the school year, the System shall determine the member's annual salary rate based upon the salary rate during the semester in which the disability benefit becomes payable or the date the member's disability commenced, whichever is greater.~~

(Source: Repealed at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.211 Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity

- a) A member may file an application to request, in writing, a transfer from a nonoccupational disability or occupational disability benefit to an age retirement

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

annuity or a disability retirement annuity prior to the expiration of the eligibility period for ~~nonoccupational disability~~ or occupational disability benefits. The effective date of the annuity shall be the first of the month following receipt of the ~~application request~~. An annuitant receiving a disability retirement annuity may, any time after becoming eligible for age retirement, ~~file an application to request in writing a~~ transfer to an age retirement annuity. The effective date of the age retirement annuity shall be the first day of the month following receipt of the ~~application written request for the transfer~~.

- b) At the time a disability retirement annuitant becomes eligible to receive an age retirement annuity, the disability retirement annuitant shall provide the System written certification by two state licensed and practicing physicians verifying that the member remains disabled and is unable to perform the duties of the position he or she held at the time the annuitant's disability commenced. The certifications shall be accompanied by a medical report fully explaining the basis for the physicians' conclusion that the member remains disabled. If the disability retirement annuitant is found to no longer be disabled, he or she shall be placed upon age retirement and receive an age retirement annuity.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.240 Refunds; ~~Impermissible Refunds;~~ Canceled Service; Repayment

- a) Any member eligible to receive a refund of contributions pursuant to the provisions of Section 16-151 of the Act shall, if he or she so elects, make a written request ~~for the refund therefor~~ upon a form prescribed by the System. A refund is deemed accepted and membership in the System terminates upon the cashing of a refund warrant.
- b) To be credited toward the calculation of a retirement annuity, survivors benefit, or disability benefit, the service canceled by such refund must have been re-established in accordance with the provisions of the Act, by repayment of the refund in full, including statutory interest, prior to the member's retirement, death, or commencement of disability benefits.
- e) ~~Whenever the System determines that there has been a refund not in accordance with the provisions of the Act (an "impermissible refund"), whatever the reason, it shall record such refund as an optional service receivable, with interest at the statutory rate accruing on any unpaid balance from date of refund until date of~~

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

~~repayment, and shall notify the member of the amount due.~~

- d) ~~A member who received an impermissible refund, who does not wish to re-establish the service canceled thereby, may retire without paying the amount due but is barred from making repayment and adding the service credit after retirement.~~
- ce) A member receiving a disability benefit under the provisions of Section 16-149 of the Act is not eligible to receive a refund of contributions until four months following the date for which disability benefits are last paid.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.250 Death Benefits

- a) When two or more beneficiaries are eligible for a survivor benefit and only one qualifies for a periodic payment, the System shall not split the benefit payments so that one person receives a lump sum payment and the other receives an annuity. The beneficiaries shall be paid either the lump sum benefit, or the dependent beneficiary may receive an annuity, provided the non-dependent beneficiary disclaims a lump sum benefit.
- b) The phrase "providing for the support of the deceased member's eligible child", as provided in Section 16-141(b)(2) of the Act means providing that support necessary so that the surviving spouse may claim the child as a dependent for federal income tax purposes.
- c) The phrase "substantial gainful activity", as provided in Section 16-140(4) of the Act, means the performance of significant duties over a reasonable period of time while working for pay or profit. Full-time work or part-time work done at the employer's convenience in a competitive work situation for at least the minimum wage conclusively shows that the person is able to engage in substantial gainful activity. Certain work offered at qualified locations to physically or mentally impaired persons is considered sheltered employment. The fact that an impaired person has accepted sheltered employment is not proof of the person's ability to engage in substantial gainful activity.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

Section 1650.260 Evidence of Age

- a) Whenever evidence of age is required by the System, a birth certificate shall be required unless one cannot be acquired.
- b) If no such record can be acquired, the following documents may be substituted:
 - 1) Military records;
 - 2) Marriage record showing date of birth;
 - 3) Evidence of Social Security payments that require attainment of specific age;
 - 4) Church record of birth or baptism;
 - 5) Passport; ~~or~~,
 - 6) [Valid driver's license; or](#)
 - 7) Two or more documents showing birth dates, such as, but not limited to naturalization papers, insurance policies, school records or medical records.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.280 Evidence of Marriage

- a) Applicants claiming benefits as a surviving spouse shall submit as evidence of marriage a copy of the public record of marriage. If ~~thesuch~~ record is unavailable due to loss or destruction, then a copy of the religious record of the marriage shall be submitted.
- b) If no such records exist, the following will be accepted for consideration:
 - 1) [A copy of the federal income tax return for the year preceding the death.](#)
 - 2) A notarized statement from the individual who performed the marriage.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- [32](#)) Notarized statements from at least two individuals in attendance of the marriage.
- [43](#)) Written certification from the Social Security Administration of acceptance of the marriage and its date.
- [54](#)) Such other documentation found by the System to be trustworthy, such as that produced by independent third parties.
- c) ~~Evidence of Dissolution or Invalidity of Marriage~~. The only document acceptable as evidence of dissolution or invalidity of marriage is a certified copy of the declaration or decree entered by a court of competent jurisdiction.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section 1650.315 Verifying Service Credit

- a) When salary information for a period of creditable service is unavailable, the System shall establish a salary and assess contributions at the applicable statutory rate equal to the member's first full-time salary paid as a contributing member of the System succeeding the time period in question.
- b) When the unavailable salary information is for part-time contractual employment, the System shall convert the first full-time salary paid succeeding the time period in question to its part-time equivalent.

(Source: Added at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.340 Service Credit for Leaves of Absence

- a) For purposes of granting service credit for an approved leave of absence, the statutory return-to-teaching requirement is met when the member returns to teaching service creditable under this System or the State Universities Retirement System for the period of the leave or one year, whichever is less.
- b) For purposes of this Section, a leave of absence is creditable as an approved leave if: the member did not resign, the employer promised renewed employment at the

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

end of the leave, and the employer ~~through its board~~ took official action to approve the request for leave, or the leave qualifies as a leave under the Family and Medical Leave Act, as certified by the employer.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.345 Service Credit for Periods Away From Teaching Due to Pregnancy

- a) Service credit of up to three years shall be granted for periods beginning prior to July 1, 1983, during which a teacher ceased covered employment due to pregnancy.
- b) For purposes of determining eligibility to receive optional service credit under the provisions of 40 ILCS 5/16-127(b)(5)(iii), the following definitions shall apply:
 - 1) "Pregnancy" shall mean the period beginning at the moment of conception and continuing through termination of the pregnancy or delivery of the child.
 - 2) "Due to pregnancy" shall mean due to the state of being pregnant and recovery therefrom due to the termination of a pregnancy or due to the delivery of a child.
 - 3) "Covered employment" means employment in a position requiring membership contributions to the System as a condition of employment.
 - 4) "Teaching service creditable under this System or the State Universities Retirement System" means employment in a position requiring membership contributions to the System or the State Universities Retirement System as a condition of employment.
- c) The documents necessary to establish service credit under this Section shall include:
 - 1) School employment records;
 - 2) Medical records;
 - 3) Birth or death certificates; and/or

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 4) Other contemporaneous documentation ~~that, such as corroborating affidavits, that are based upon actual knowledge and are sufficiently specific as to times, dates, places and surrounding circumstances so that the proof of service submitted to the System~~ reliably supports documents the service credit to be established while eliminating the possibility of mistake or fraud.
- d) For purposes of granting service credit for periods away from teaching due to pregnancy, the statutory return-to-teaching requirement is met when the member returns to teaching service creditable under this System or the State Universities Retirement System for the period the member was away from teaching due to pregnancy or one year, whichever is less.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.346 Service Credit for Periods Away From Teaching Due to Adoption

- a) Service credit of up to three years shall be granted for periods beginning prior to July 1, 1983, during which a teacher ceased covered employment for the purpose of adopting an infant under three years of age or caring for a newly adopted infant under three years of age.
- b) For purposes of determining eligibility to receive optional service credit under the provisions of 40 ILCS 5/16-127(b)(5)(iv), the following definitions shall apply:
- 1) "Ceased covered employment" shall mean the submission of a resignation that terminated employment in a position requiring membership contributions to the System as a condition of employment.
 - 2) "For the purpose of adopting an infant under three years of age" shall mean the termination of covered employment:
 - A) To meet the requirements of an adoption agency or similar entity resulting in the adoption of an infant who is under the age of three at the time the member terminates covered employment; ~~or~~
 - B) To formally commence judicial or administrative proceedings to adopt an infant who is under the age of three at the time the

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

adoption proceedings were initiated; or

- C) ~~To~~ care for an infant under the age of three while an adoption proceeding is ongoing which results in the adoption of the infant.
- 3) "Caring for a newly adopted infant under three years of age" shall mean providing care to an adopted infant of less than three years of age when the interruption of service begins within 180 days after the court order declaring the member the adoptive parent of such an infant.
- 4) "Teaching service creditable under this System or the State Universities Retirement System" means employment in a position requiring membership contributions to the System or the State Universities Retirement System as a condition of employment.
- c) The documents necessary to establish service credit under this Section shall include:
- 1) Employment records;
 - 2) Birth certificates;
 - 3) Court records;
 - 4) Adoption agency records;
 - 5) Governmental records; and/or
 - 6) Other contemporaneous documentation ~~that, such as corroborating affidavits, that are based upon actual knowledge and are sufficiently specific as to times, dates, places and surrounding circumstances so that the proof of service submitted to the System~~ reliably supports documents the service credit to be established while eliminating the possibility of mistake or fraud.
- d) For purposes of granting service credit for periods away from teaching due to adoption, the statutory return-to-teaching requirement is met when the member returns to teaching service creditable under this System or the State Universities Retirement System for the period the member was away from teaching due to

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

adoption or one year, whichever is less.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.380 Definition of Actuarial Equivalent (Repealed)

~~"Actuarial equivalent" as defined in Section 16-122 of the Illinois Pension Code [40 ILCS 5/16-122] shall mean a benefit or sum of equal value to another benefit or sum when computed on the basis of:~~

- ~~a) the 1995 George B. Buck Mortality Tables, with 42% male mortality and no age adjustments for primary annuitants, and with 58% male mortality and ages set forward one year for contingent annuitants. (The 1995 George B. Buck Mortality Tables incorporated by reference into this Section were prepared in 1995 by Buck Consultants, 500 Plaza Drive, Secaucus, New Jersey 07096-1533 and do not include any later amendments to these tables. Copies of the tables may be obtained from the Office of General Counsel, Teachers' Retirement System of the State of Illinois, 2815 West Washington, Post Office Box 19253, Springfield, Illinois 62794-9253.); and~~
- ~~b) interest at 8.5% per annum, compounded annually.~~

(Source: Repealed at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.391 Optional 2.2 Upgrade of Earned and Credited Service

- a) Electing to upgrade.
 - 1) A member's 2.2 upgrade cost becomes fixed on the date the member elects to upgrade and remains fixed until the expiration of the 60-month period commencing on the August 15 following election or full payment of the upgrade cost, whichever is first. The 60-month period will be extended due to suspension of a payroll deduction agreement as provided in Section 1650.1202(d).
 - 2) Once a member has elected to upgrade his or her service credit in accordance with Section 16-129.1 of the Illinois Pension Code [40 ILCS 5/16-129.1], the member is prohibited from electing another upgrade until the fixed cost period described in subsection (a)(1) for the upgrade

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

election has expired.

- 3) After filing an upgrade election, a member may upgrade any optional or refunded service added to the member's service credit record within the period provided in subsection (a)(1) at the same salary rate used to determine the original upgrade cost, provided the additional service is purchased within the same five-year period.
- b) Determining the contribution necessary for upgrade.
- 1) The "member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the election occurs" shall be based upon the 4 most recent employer's annual reports, as amended, required to be filed in accordance with Section 16-155 of the Pension Code [40 ILCS 5/16-155].
 - 2) When determining the contribution necessary for the upgrade, that part of a member's salary with the same employer that exceeds the annual full-time salary rate for the preceding year by more than 20% shall be excluded.
 - 3) If a member has less than one year of creditable service in any of the 4 consecutive school years immediately prior to but not including the school year in which the election occurs, and was a part-time non-contractual teacher or a substitute teacher in such year, the annualized salary rate for the school year shall be determined by dividing the creditable service fraction into the salary paid to the member during that school year.
 - 4) The service credit given to a member at retirement pursuant to Section 16-127(b)(6) of the Pension Code [40 ILCS 5/16-127(b)(6)] shall be disregarded for the purpose of the calculation of the optional contribution necessary for the upgrade feature.
- c) Failing to make contribution.
- 1) A member has failed to make the full contribution in a timely fashion:
 - A) if the full contribution is not paid within the effective period of the election; or

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- B) upon termination of employment as a teacher for any cause other than death or retirement, if the member requests in writing that the election be terminated at least 4 months after ceasing to teach.
- 2) If the member has failed to make the full contribution in a timely fashion, the election shall be terminated and shall be no longer in effect.
- 3) *If the member has failed to make the full contribution in a timely fashion, the payments made under this Section shall be refunded to the member, without interest [40 ILCS 5/16-129.1].* However, if the member is able to re-elect, and does re-elect, for the 2.2 upgrade feature prior to the refund being made, the amount of the refund shall be used as a partial lump sum contribution towards the cost of the 2.2 upgrade feature.
- 4) *If the member dies before making the full contribution, the payments under this Section, together with regular interest thereon, shall be refunded to the member's designated beneficiary for benefits under Section 16-138 of the Pension Code [40 ILCS 5/16-129.1].*
- d) Interest on upgrade refunds shall be calculated from the first day of the month following the date of any payment to the date of refund as provided in 40 ILCS 5/16-129.1 based upon the earliest to the latest payments.
- e) In the event an actuarial calculation provides a member a greater benefit than an upgraded final average salary calculation, the System shall refund the upgrade cost plus interest to the member.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

- a) This Section shall apply only to a member who has elected to upgrade the graduated rate applicable to all of the member's years of service earned and credited before July 1, 1998, pursuant to Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1] and 80 Ill. Adm. Code 1650.391 and who has less than 20 years of service earned and credited before July 1, 1998.
- 1) A member participating in a pre-July 1, 1998 service upgrade may

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

upgrade any optional service credit added within the 5-year period provided in Section 16-129.1(b)(ii) at the same salary rate as that of the original upgrade, provided that the added optional service upgrades are paid off within the 5-year period.

- 2) The effective period of the election shall begin as of the date on which the election is received by the System and shall end upon the expiration of a 60-month period commencing on the August 15 following the date of election or payment in full, whichever is first. [The 60-month period will be extended due to suspension of a payroll deduction agreement as provided in Section 1650.1202\(d\).](#)
- b) A member subject to this Section shall be required to pay an upgrade charge for any optional service credited to the member's service on or after July 1, 1998, if the time of employment or other qualifying event upon which the service is based is prior to July 1, 1998, unless the charge is reduced or eliminated by the contribution reduction provided in Section 16-129.1(b) of the Pension Code [40 ILCS 5/16-129.1(b)].
- 1) The "member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the election occurs" shall be based upon the 4 most recent employer's annual reports, as amended, required to be filed in accordance with Section 16-155 of the Pension Code [40 ILCS 5/16-155].
 - 2) When determining the contribution necessary for the upgrade, that part of a member's salary with the same employer that exceeds the annual full-time salary rate for the preceding year by more than 20% shall be excluded.
 - 3) If a member has less than one year of creditable service in any of the 4 consecutive school years immediately prior to but not including the school year in which the election occurs and was a part-time non-contractual teacher or a substitute teacher in such year, the annualized salary rate for the school year shall be determined by dividing the creditable service fraction into the salary paid to the member during that school year.
 - 4) The service credit given to a member at retirement pursuant to Section 16-127(b)(6) of the Pension Code [40 ILCS 5/16-127(b)(6)] shall be

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

disregarded for the purpose of the calculation of the contribution necessary for the upgrade feature.

- c) Failing to make contribution.
 - 1) A member has failed to make the full contribution in a timely fashion:
 - A) if the full contribution is not paid within the effective period; or
 - B) upon termination of employment as a teacher for any cause other than death or retirement, if the member requests in writing that the election be terminated at least 4 months after ceasing to teach.
 - 2) If the member has failed to make the full contribution in a timely fashion, the election shall be terminated and shall be no longer in effect.
 - 3) If the member fails to make the full contribution within the appropriate time period described in subsection (c)(1), and:
 - A) if the payment is for the repayment of a refund, the amount contributed for both the refund and upgrade shall be refunded to the member, without interest; or
 - B) if the payment is for optional service other than a refund, and:
 - i) if the member has made the full upgrade contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the portion of the upgraded optional service credit determined by the System to have been paid shall be credited to the member's account; or
 - ii) if the member fails to make the full contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the payments made for the upgrade shall be refunded to the member, without interest.
 - 4) However, if the reason for the failure is the death of the member:

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- A) if the member has made the full upgrade contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the portion of the upgraded optional service credit determined by the System to have been paid shall be credited to the member's account; or
 - B) if the member fails to make the full contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391 or if the payment is for a refund, the payments made for the upgrade, together with regular interest thereon, *shall be refunded to the member's designated beneficiary for benefits under Section 16-138 of the Pension Code* [40 ILCS 5/16-129.1].
- 5) The date of election for the purpose of determining the amount of optional service credit paid shall be deemed to be:
- A) if pursuant to subsection (c)(3)(B)(i), the date upon which the failure to contribute in a timely fashion occurred; or
 - B) if pursuant to subsection (c)(4)(A): the date of the election that terminated upon the member's death, if the member had elected the upgrade prior to his or her death; or the date of death if the member had not previously elected the upgrade.
- d) Interest on upgrade refunds shall be calculated from the first day of the month following the date of any payment to the date of refund as provided in 40 ILCS 5/16-129.1(b) based upon the earliest to the latest payments.
- e) In the event an actuarial calculation provides a member a greater benefit than an upgraded final average salary calculation, the System shall refund the upgrade cost plus interest to the member.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

| **Section 1650.440 Small Deficiencies, Credits or Death Benefit Payments (Repealed)**

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

~~No statements for an account receivable, account payable, death benefit payments, or refunds shall be charged or issued to members, annuitants, beneficiaries or employers for deficiencies, credits or payments amounting to less than \$50.00 unless demanded.~~

(Source: Repealed at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.450 Compensation Recognized As "Salary" ~~Definition of Salary~~

- a) "Salary" means any form of creditable compensation received by a member in consideration of services rendered as a teacher, subject to all applicable limits and restrictions imposed on qualified plans under the Internal Revenue Code. "Salary" directly related to specific work performed during a school year is recognized on an accrual basis. Other creditable compensation is recognized on a cash basis. The System reserves the right to determine the year of salary recognition. The following common examples are for illustration only and do not limit the System's right to evaluate and determine other forms of creditable and non-creditable compensation. Any emolument of value recognized by the System that is received, actually or constructively, by a member in consideration for services rendered as a teacher, within all applicable limits and restrictions on qualified pension plans contained in the Internal Revenue Code (26 USC 401(a) et seq.). Subsection (b) of this Section lists the more common elements of compensation that are recognized by the System as "salary", for purposes of illustration. For further illustration, subsection (c) mentions several examples of items not recognized by the System as "salary". However, "salary" within the meaning of Section 16-121 of the Act is not limited to the items enumerated.
- b) Examples of creditable compensation recognized as "salary": ~~Examples of salary amounts to be reported to the System include:~~
- 1) The gross amount of ~~wages or~~ compensation earned or accruing to the member during the school year, in a function requiring certification as a teacher, ~~and payable by the employer at termination of service;~~
 - 2) Additional ~~wages or~~ compensation earned during the school year for the performance of extra duties, not requiring teacher certification, but which involve the supervision of students or are related to the academic program, provided the member is employed as a full-time or part-time contractual teacher and establishes active service credit in that position during the

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

school year.;

- 3) The amount of back salary awarded to a member as a result of a settlement or judgment obtained due to a disputed dismissal, suspension or demotion. Court costs, attorney's fees, other compensatory damages and punitive damages shall not be reportable as salary. The back salary amount reported to the System under this Section shall be equal to the amount the member would have earned had the dispute not occurred, regardless of the actual amount paid.;
 - 4) ~~Lump-sum payments~~Severance pay (e.g., retirement incentives, ~~lump-sum~~ bonuses, payments for unused vacation and sick days) received by the member or becoming due and payable to the member prior to or concurrent with receipt of final paycheck for regular earnings.;
 - 5) Contributions made by or on behalf of the member to qualified deferred compensation plans (sections 401(a) and 457(b) of the Internal Revenue Code), salary reduction plans or tax sheltered annuities under section 403(b) of the Internal Revenue Code.;
 - 6) Amounts that would otherwise qualify as salary under subsections (b)(1) through (b)(5) but are not received directly by the member because they are used to finance benefit options in a flexible benefit plan; provided, however, that to be reportable, a flexible benefit plan ~~must be available to teachers on a non-discriminatory basis and~~ cannot include non-qualifying deferred compensation. ~~Effective July 1, 1999, flexible benefit plans need not be made available to teachers on a non-discriminatory basis.~~ For the System's purposes, a flexible benefit plan is an option offered by an employer to its employees covered under the System to receive an alternative form of creditable compensation in lieu of employer-provided insurance.
- c) Examples of non-creditable compensation not recognized as "salary": of amounts not reportable to the System include:
- 1) ~~Lump-sum payments~~Any severance payment (e.g., retirement incentives, ~~lump-sum~~ bonuses, payments for unused vacation and sick days) becoming due and payable to the member subsequent to receipt of final paycheck for regular earnings.;

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 2) Any lump sum payment made after the death of the member.;
- 3) Expense reimbursements, expense allowances, or fringe benefits unless included in a reportable flexible benefit plan.;
- 4) Any monies received by the member under the Workers' Compensation Act or the Workers' Occupational Diseases Act.;
- 5) ~~Compensation~~ Wages or compensation for extra duties not requiring teacher certification performed by substitute and part-time non-contractual teachers.;
- 6) Any amount paid in lieu of ~~discontinued or decreased~~ previously non-reportable benefits, or reported in lieu of previously non-reported compensation, where the conversion occurs in the member's final seven ~~last~~ years of service ~~and one of the purposes is to increase a member's average salary~~. If any form of the member's non-creditable or non-reported compensation in any of the member's last seven creditable school years of employment exceeds that of any other subsequent year, the System will presume the difference, ~~unless resulting from the terms of a collective bargaining agreement~~, to have been converted into salary ~~and wages~~ in the subsequent year ~~for the purpose of increasing final average salary~~. To overcome the presumption, the member must submit documentary evidence to the System that clearly and convincingly proves that ~~none of the purposes of~~ the change in compensation structure was due to a change to increase average salary (for example, changes in a collectively bargained agreement) applicable to all similarly situated individuals covered by the agreement, a change in employer policies affecting a group of similarly situated members some of whom are not within seven years of retirement eligibility, or a change in family status, and not to increase final average salary.;
- 7) Any amount paid by an employer as the employer's one time contribution (or on behalf of the employee as the employee's one-time contribution) required by the System as part of the statutory early retirement option in Section 16-133.2 of the Act.;
- 8) Options to take salary in lieu of employment-related expense allowances

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

or reimbursements;

- 9) Employer payment of the member's Teachers Health Insurance Security Fund contribution;
- 10) Commissions (i.e., payments to a member based upon a percentage formula);
- 11) Contributions to and distributions from nonqualified deferred compensation arrangements.
- 12) [Employer contributions to and distributions from medical spending accounts.](#)

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.470 Rollover Distributions

- a) [An](#) Beginning January 1, 1993, any eligible recipient entitled to receive ~~from the System~~ a refund of contributions, ~~pursuant to the provisions of Sections 16-138, 16-143.2, or 16-151 of the Illinois Pension Code [40 ILCS 5/16-138, 16-143.2, 16-151];~~ a lump-sum benefit, ~~pursuant to the provisions of Sections 16-136.4, 16-141 or 16-142 of the Illinois Pension Code [40 ILCS 5/16-136.4, 16-141, 16-142];~~ or other nonperiodic distribution from the System may elect to have the taxable portion thereof paid in a direct rollover from the System to an eligible retirement plan designated in writing by the eligible recipient; provided, however, that any portion thereof which is a required distribution pursuant to any applicable provision of the Internal Revenue Code is not payable in a direct rollover.
- b) If the taxable portion of the distribution from the System is less than \$200, it is not payable in a direct rollover.
- c) If the taxable portion of the distribution from the System is at least \$200 but less than \$500, the entire sum must either be paid in a single direct rollover or to the eligible recipient.
- d) If the taxable portion of the distribution is greater than \$500, the eligible recipient may have a portion thereof paid to him or her and the balance paid in a direct rollover; provided, however, that the direct rollover must be at least \$500.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- e) Multiple direct rollovers from the System to more than one eligible retirement plan ~~as defined below in subsection (f) of this Section~~ are not allowed.
- f) An "eligible retirement plan" for purposes of this Section is in 26 USC 402(f)(2)(B), any of the following:
- 1) ~~An individual retirement account described in Section 408(a) of the Internal Revenue Code;~~
 - 2) ~~An individual retirement annuity described in Section 408(b) of the Internal Revenue Code;~~
 - 3) ~~An annuity plan described in Section 403(a) of the Internal Revenue Code;~~
 - 4) ~~A qualified trust described in Section 401(a) of the Internal Revenue Code that has agreed to accept the distribution;~~
 - 5) ~~For rollover distributions made after December 31, 2001, an annuity contract described in Section 403(b) of the Internal Revenue Code; or~~
 - 6) ~~For rollover distributions made after December 31, 2001, an eligible plan under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, and that agrees to separately account for amounts transferred into the plan from the System.~~
- g) A "direct rollover" for purposes of this Section is a payment by the System to an eligible retirement plan specified by the eligible recipient as provided ~~above~~ in subsection (a) of this Section.
- h) An "eligible recipient" for purposes of this Section is:
- 1) A member of the System as defined in Section 16-107 of the Illinois Pension Code [40 ILCS 5/16-107];
 - 2) An alternate payee under a valid Qualified Illinois Domestic Relations Order (QILDRO) on file with the System in accordance with Section 1-119 of the Illinois Pension Code [40 ILCS 5/1-119]~~A surviving spouse of~~

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

~~a member of the System~~; or

3) ~~As allowed by 26 USC 402. For rollover distributions made after December 31, 2001, a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code.~~

i) If the eligible recipient elects a direct rollover from the System as provided in this Section, the eligible recipient shall certify in writing the following:

- 1) That he or she has read the "Special Tax Notice Regarding Payments from TRS"; and
- 2) That the direct rollover is being made into an eligible retirement plan as defined ~~by 26 USC 402(f)(2)(B), in subsection (f) of this Section.~~

j) If the eligible recipient elects a direct rollover from the System as provided in this Section, the eligible recipient shall obtain the certification in writing of the entity that is to receive the direct rollover as to the following:

- 1) That the entity receiving the direct rollover is legally eligible to receive such direct rollover;
- 2) That the entity receiving the direct rollover has agreed to accept such direct rollover;
- 3) That the direct rollover is being made to an eligible retirement plan as defined in subsection (f) of this Section; and
- 4) Identifying the type of eligible retirement plan ~~as defined in subsection (f) of this Section~~ to which the direct rollover is being made.

k) In order to receive payment from the System in a direct rollover pursuant to this Section, the System must receive from the eligible recipient all of the following together, in the form or forms prescribed by the System:

- 1) An application for lump-sum distribution;
- 2) A rollover election;

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 3) A certification from the eligible recipient as provided above in subsection (i) of this Section; and
 - 4) A certification from the entity receiving the direct rollover as provided above in subsection (j) of this Section.
- l) Payments from the System that are part of a series of equal or substantially equal periodic payments made at least once a year cannot be paid in a direct rollover, if such payments will last for:
- 1) The life or life expectancy of the person entitled to receive such payments;
 - 2) The lives or joint life expectancies of the person entitled to receive such payments and that person's beneficiary;
 - 3) A period of ten years or more; or
 - 4) A period that represents any type of disability payment.
- m) ~~This subsection (m) is promulgated pursuant to Section 636(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001.~~
- 1) ~~For purposes of direct rollovers made after December 31, 2001, any amount that is distributed on account of hardship shall not be an eligible rollover distribution, and the distributee may not elect to have any portion of that distribution paid directly to an eligible retirement plan.~~
 - 2) ~~For purposes of direct rollovers made after December 31, 2001, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after tax employee contributions that are not includable in gross income. However, that portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includable.~~

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.480 Rollovers to the System

- a) The System will accept rollovers to purchase optional service credit, repay refunds, or pay any other employee contribution authorized by Article 16 of the Pension Code [40 ILCS 5/~~Art. 16-101~~].
- b) Members are required to establish an account or accounts receivable with the System prior to initiating a rollover. The amount of the rollover cannot exceed the amount due the System.
- c) The System will accept member rollover contributions and/or direct rollovers of distributions as defined in 26 USC 402(f)(2)(A).~~made after December 31, 2001 from the following types of plans:~~
 - 1) ~~Direct Rollovers~~
~~The System will accept a direct rollover of an eligible rollover distribution from:~~
 - A) ~~a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code (IRC), including after-tax employee contributions;~~
 - B) ~~an annuity contract described in Section 403(b) of the IRC that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state;~~
 - C) ~~an eligible plan under Section 457(b) of the IRC that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.~~
 - 2) ~~Participant Rollover Contributions from Other Plans~~
~~The System can accept a participant rollover contribution from the following types of plans:~~
 - A) ~~a qualified plan described in Section 401(a) or 403(a) of the IRC;~~

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- ~~B) an annuity contract described in Section 403(b) of the IRC; or~~
- ~~C) an eligible plan under Section 457(b) of the IRC that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.~~
- 3) ~~Participant Rollover Contributions from IRAs~~
The System will accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408(b) of the IRC that is eligible to be rolled over and would otherwise be includable in gross income.
- 4) ~~Any other rollover that may be authorized by federal law.~~
- d) Prior to accepting a rollover, the System may require the member to establish that the amounts to be transferred to the System meet the requirements of this Section, and may also require the member to provide an opinion of counsel satisfactory to the System that the amounts to be transferred meet the requirements of this Section.
- e) The System's acceptance of a rollover shall be subject to any applicable regulations, procedures, or other guidance issued by the Internal Revenue Service.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

SUBPART F: ~~RULES GOVERNING~~ ANNUITANTS AND BENEFICIARIES**Section 1650.510 Re-entry Into Service (Repealed)**

~~Annuitants returning to service and who on subsequent retirement were subject to but did not acquire the necessary three years' contributing service:~~

- ~~a) are entitled to pensions at rates or according to formulas in force at the date of their previous retirement, plus additional credit if such credit constitutes at least one creditable year;~~
- ~~b) are required to repay any pension benefits received if resumption of teaching occurs with any employer sooner than the expiration of one full and complete~~

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

~~school year.~~

(Source: Repealed at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.550 Presumption of Death

- a) Whenever any member, annuitant, or beneficiary has been so out of communication with the System that the fact of his or her being alive cannot be ascertained, he or she shall be presumed to be dead. In the event this presumption of death shall be removed by proof that he or she is alive, benefits shall be paid or resumed from the date of the last payment.
- b) Whenever any inactive member reaches age 70 and has not been in communication with the System for longer than 20 years, he or she shall be presumed dead and the member's account shall be terminated with no interest credited. ~~The contributions made by the member shall be transferred from the Member's Contribution Reserve to the Employer's Contribution Reserve.~~ In the event this presumption shall be removed by proof the member is alive or deceased, his or her account shall be reinstated with interest.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.570 Survivors' Benefits

~~a) In the event a survivor's benefit payment is reduced to meet the dollar limitations of Section 16-141 of the Illinois Pension Code [40 ILCS 5/16-141], the widow or widower's portion of the total benefit shall be 30% of the decedent's average salary subject to the dollar maximum in Section 16-141, and the payment for a child or children shall be the excess amount over the widow or widower's portion of the total payment.~~ b) Survivors annuity payments on account of ~~dependent disabled minor~~ children accepted by the spouse after the children have legally been removed from the spouse's care will be considered benefit over-payments and will be subject to collection in accordance with Section 1650.595.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.590 Comptroller Offset

Prior to the referral of any debt owed the System to the Office of the Comptroller for collection through the Comptroller Offset System as authorized under Section 10.05 of the State

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

Comptroller Act [15 ILCS 405/10.05] and Section 5 of the Illinois State Collection Act [30 ILCS 210/5], the System shall provide the debtor:

- a) Written notice that the debt is being referred to the Comptroller for offset. The notice shall set forth the amount of and basis for the debt. The notice shall further advise the debtor of the debtor's right to a hearing to contest the debt by filing a written request with the System within 30 days after receipt of the notice by the debtor. Failure to request a hearing within the 30 days provided shall terminate any right to a hearing before the System.;
- b) A hearing with the System, if requested by the debtor, to allow the debtor an opportunity to establish the debt has been paid or is not owed. The hearing shall be held before a three-member panel appointed by the System's Executive Director, consisting of the System's Controller, Deputy Director of Benefits and Manager of Accounting, or their designees; and
- c) A written decision advising the debtor of the basis for the panel's decision.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

SUBPART H: ADMINISTRATIVE REVIEW

Section 1650.635 Presiding Hearing Officer – Duties and Responsibilities

The Presiding Hearing Officer of the Claims Hearing Committee shall have the following powers and duties and shall perform the following functions during administrative review proceedings.

- a) Pre-hearing:
 - 1) The Presiding Hearing Officer shall monitor and supervise the pre-hearing proceedings to ensure that the Committee is presented with the information necessary to make an informed and legally supported decision on the matters being presented for administrative review.
 - 2) The Presiding Hearing Officer shall facilitate cooperation between the petitioner and the System's Legal Counsel in the preparation of issue and fact statements. Whenever appropriate, the Presiding Hearing Officer shall encourage the use of stipulated materials to enhance the efficiency of

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

the proceedings.

- 3) The Presiding Hearing Officer shall ensure the timely exchange of exhibits, witness lists and testimony summaries.
 - 4) The Presiding Hearing Officer shall rule on discovery requests and procedural matters. The rules of civil procedure shall not be strictly applied; however, the Presiding Hearing Officer shall make necessary and appropriate legal or evidentiary rulings to ensure that both parties receive fair and timely consideration of all pre-hearing motions and discovery requests.
 - 5) The Presiding Hearing Officer shall establish pre-hearing position statements and briefing schedules.
 - 6) The Presiding Hearing Officer shall make any necessary and appropriate inquiries or requests of the parties in order to assure that the Committee has the requisite information to rule on the issues raised by the claim.
 - 7) The Presiding Hearing Officer shall develop hearing procedures that assure that the hearing process remains focused on pertinent issues while providing a full and fair hearing for the petitioner and the System. Whenever appropriate, the Presiding Hearing Officer shall encourage the parties to submit the matter to the Committee on the written record.
 - 8) When appropriate, the Presiding Hearing Officer shall facilitate settlement of the claim prior to hearing.
- b) Hearing:
- 1) The Presiding Hearing Officer shall preside at the administrative review hearing and shall assure that the proceedings remain focused on the issues to be decided by the Committee and that both the petitioner and the System are treated fairly and equally in the presentation of their respective positions.
 - 2) The Presiding Hearing Officer shall ensure that the agreed upon hearing format is followed.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 3) The Presiding Hearing Officer shall ensure that repetitious and irrelevant arguments and evidence are excluded.
- 4) The Presiding Hearing Officer shall make necessary and appropriate legal or evidentiary rulings.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.640 Prehearing Procedure

- a) Upon written notice by the Presiding Hearing Officer, the petitioner, or his or her attorney, and ~~counsel~~the Legal Counsel for the System shall make themselves available~~appear~~ at a mutually agreeable times for pre-hearing conference~~time~~ and place for a prehearing conference for the following purposes:
 - 1) The simplification of issues;
 - 2) The amendment of pleadings;
 - 3) The making of admissions of facts or stipulations for the purpose of avoiding the unnecessary introduction of evidence;
 - 4) Establishing the procedure at the hearing;
 - 5) The limitation of the number of witnesses;
 - 6) The disclosure of all witnesses (expert and non-expert) to be called to testify at hearing;
 - 7) Disclosure of the substance of the testimony of all witnesses to be called;
 - 8) The exchange of all exhibits to be introduced at hearing;
 - 9) Establishing briefing schedules for the submission of position statements and accompanying documentation; and
 - 10) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- b) To the extent that the parties are unable to agree or stipulate to matters at the pre-hearing conference, the Presiding Hearing Officer shall make the rulings and determinations necessary to assure that the issues, discovery, witnesses, evidence, and procedures prior to and at hearing remain focused on relevant and material matters. Failure to attend a ~~pre-hearing~~~~prehearing~~ conference or failure to adhere to rulings, schedules or agreements made at the pre-hearing conference may, in the discretion of the Presiding Hearing Officer, result in delay of the hearing or limitations on the presentation of certain positions or the use of certain evidence at the hearing.
- c) Upon agreement of the parties or with the express consent of the Presiding Hearing Officer, the parties may undertake discovery, which may include interrogatories, requests for production of documents, discovery depositions, and evidence depositions. If the parties are unable to agree to all or any form of discovery, any party may~~If after the prehearing conference a party wishes to undertake further discovery, that party shall~~ submit a written request to the Presiding Hearing Officer ~~with a copy to all~~~~and the~~ other parties setting forth with sufficient particularity the information sought and the form of discovery requested. The Presiding Hearing Officer shall grant such request upon determining the information is ~~necessary~~~~essential~~ to the requesting party's case and the Committee's full understanding of the issues presented. Any additional witnesses or exhibits identified during further discovery must be exchanged in writing by certified mail at least 14 days prior to hearing.
- d) Any witnesses not disclosed or exhibits not exchanged at the prehearing conference or 14 days prior to hearing, if additional discovery is allowed, shall be barred at hearing unless good cause is shown for such failure to provide. At the discretion of the Presiding Hearing Officer, a hearing may be postponed in the interest of fairness to allow a party time to investigate and prepare to respond to newly submitted evidence.
- e) The parties may agree to submit the matter for the Committee's decision solely on the written record.
- f) Either party may file motions necessary to resolve matters and to focus the remaining issues for hearing. The motions may include motions to dismiss and motions for summary judgment, where appropriate. Procedural matters may be resolved by the Presiding Hearing Officer. Substantive matters will be submitted to the Claims Hearing Committee for ruling.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

g) If, in the judgment of the Presiding Hearing Officer, the petitioner has not diligently pursued his or her claim, the Presiding Hearing Officer may find the petitioner to be in default and dismiss the petitioner's claim. Prior to dismissing a claim, however, the Presiding Hearing Officer shall provide the petitioner with an opportunity to show cause why the claim should not be dismissed. A dismissed claim may be re-filed within 6 months after the date of its dismissal, but shall be barred thereafter. A claim may not be re-filed after a second dismissal.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.650 Hearing Procedure

- a) All administrative review hearings shall be recorded by a court reporter.
- b) The Presiding Hearing Officer of the Claims Hearing Committee shall preside over the hearing and shall assure that the proceedings are consistent with any agreements or rulings on issues, evidence, witnesses or hearing format established prior to the hearing.
 - 1) All agreed to or stipulated issues, facts, documents or exhibits shall be considered as evidence in the proceeding.
 - 2) Witnesses, exhibits, evidence, issues or legal arguments not disclosed prior to the hearing shall be barred unless good cause is shown for the failure to provide such information to the other party. At the discretion of the Presiding Hearing Officer, the hearing may be postponed in order to allow a party time to investigate and prepare to respond to the new information.
- c) The Presiding Hearing Officer shall make the necessary and appropriate procedural and evidentiary rulings to assure that the proceedings remain focused on the issues to be resolved by the Committee.
- d) The rules of evidence shall not be strictly applied; however, the Presiding Hearing Officer shall apply the rules of evidence to assure production of relevant and material evidence and shall further assure that testimony is subjected to such examination and cross-examination as is necessary for a full and fair disclosure of the facts.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- 1) Irrelevant or unduly repetitious evidence shall be excluded.
 - 2) All individuals testifying at the hearing shall be sworn.
 - 3) Originals of documents may be introduced into evidence with leave to substitute copies.
- e) Order of Presentation. Unless otherwise agreed to by the parties:
- 1) The petitioner or his or her attorney will present the petitioner's position and supporting evidence subject to cross-examination and legal challenge.
 - 2) The System's legal counsel will present the System's position and supporting evidence subject to cross-examination and legal challenge.
 - 3) The parties may make closing arguments if they so desire.
 - 4) Following the presentations of both the System and the petitioner, any member of the Committee may ask questions necessary to clarify the Committee's understanding of the facts or law.
- f) Upon conclusion of all arguments, the Committee shall decide, in private executive-session deliberations, on a recommendation as to the disposition of the appeal, which recommendation shall be communicated to the Board at its next regular meeting. The Executive Director of the System may be present during the Committee's deliberations.
- g) The Committee shall arrive at one of three decisions regarding a recommendation to the Board:
- 1) A recommendation to affirm the administrative action.
 - 2) A recommendation to reverse the administrative action.
 - 3) A recommendation to remand the proceedings back to the administrative staff for further consideration.
- h) The Committee shall direct that [a Recommended Decision](#)~~proposed Findings of~~

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

~~Fact and Conclusions of Law~~ reflecting the Committee's decision be prepared for consideration by the Board and the ~~parties~~Parties to the hearing.

- i) Any party adversely affected by the Committee's Recommended Decision~~proposed Findings of Fact and Conclusions of Law~~ shall have 15 days from receipt of the Recommended Decision~~proposed Findings of Fact and Conclusions of Law~~ to file with the Board exceptions and a brief in support of their exceptions.
- j) At its next regular meeting following the time for filing exceptions, the Board of Trustees shall act on the Recommended Decision~~proposed decision of the Committee~~ by either:
 - 1) Adopting the Recommended Decision~~Findings of Fact and Conclusions of Law made by the Committee~~; or
 - 2) Rejecting, in whole or in part, the Recommended Decision~~Findings of Fact and Conclusions of Law made by the Committee~~ and directing that:
 - A) A revised Recommended Decision~~Revised Findings of Fact and Conclusions of Law~~ be prepared to reflect the Board's decision; ~~or~~
 - B) The matter be remanded to the Committee for further consideration; or
 - C) The matter be remanded to the System staff for further consideration.
- k) The decision of the Board of Trustees shall be a final administrative decision for purposes of the Illinois Administrative Review Law [735 ILCS 5/Art. III].
- l) The decision of the Board of Trustees shall be communicated to the petitioner in writing within 30 days after the meeting at which the recommendation of the Committee was acted upon.
- m) The Board of Trustees may grant a re-hearing or further written appeal for the purpose of considering new or additional evidence not previously available. The procedures set forth in this Section shall apply to such proceedings.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section 1650.1118 Alternate Payee's Address

- a) An alternate payee is responsible to report to the System in writing of each change in his or her name and mailing address.
- b) When a member's retirement benefit, lump-sum death benefit, or refund subject to a QILDRO becomes payable, the System will send notice to the last address of the alternate payee reported to the System that the benefit or refund is payable. Other than sending such notice, the System shall have no duty to take any other action to locate an alternate payee.
- c) The 180-day period during which the System will hold the retirement benefit, lump-sum death benefit, or refund as provided in Section 1-119(e)(2) of the Act [40 ILCS 5/1-119(e)(2)] begins on the date that the notice described in subsection (b) of this Section is sent to the last address of the alternate payee reported to the System, or on the date that the retirement benefit, lump-sum death benefit, or refund becomes payable, whichever is later.
- [d\)](#) If the System does not receive written confirmation of the alternate payee's current mailing address within the 180-day period, any amounts held will be paid to the regular payee, [except for the situation described in subsection \(e\) of this Section.](#)
- [e\)](#) [For partial member's refunds as defined in Section 1650.1110\(g\), if the System knows the alternate payee's current mailing address but does not receive a completed withholding election form within the 180-day period, any amount held will be paid to the alternate payee, subject to mandatory 20 percent federal income tax withholding.](#)

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

SUBPART N: PAYROLL DEDUCTION PROGRAM

Section 1650.1201 Employer Responsibility Under the Payroll Deduction Program [Upon Execution of a Payroll Deduction Agreement](#)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- a) Employers shall notify the System of all executed payroll deduction agreements prior to the withholding of any deductions pursuant to such agreement.
- b) Prior to or on the 10th day of the month following the month in which deductions are made, the employer shall remit payroll deductions to the System.
- c) Payroll deduction remittances ~~shall be accompanied by the System's billing invoice and~~ shall indicate the name and Social Security number of each ~~member participant~~ who was scheduled to have an amount remitted but whose payroll deduction agreement was suspended or terminated, and the reasons for the suspension or termination.
- d) The employer shall withhold the monthly amount stated in the payroll deduction agreement until the payroll deduction agreement is paid in full, or until the payroll deduction agreement is suspended or terminated.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

Section 1650.1202 Payroll Deduction Agreements – Suspensions and Terminations

- a) A payroll deduction agreement will be suspended (rather than terminated) if the member ceases receiving a salary from the employer with whom the member has the payroll deduction agreement for a period of ~~time not to exceed~~ one year or less, and the member has a promise of renewed employment at the end of the period of absence or the member has a right of reemployment under the School Code [105 ILCS 5].
- b) If a member is not reemployed at the end of a payroll deduction suspension period ~~that lasted for one year~~, the member's payroll deduction agreement will be terminated.
- c) When a member returns to full-time teaching after a payroll deduction suspension period of agreement was suspended for less than one year or less, the member's employer will resume withholding under the payroll deduction agreement.
- d) A payroll deduction agreement interrupted by a suspension will be extended by the length of time necessary to purchase the service covered by the payroll deduction agreement.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

- e) A payroll deduction agreement will be terminated when the payroll deduction agreement is paid in full or upon the occurrence of one of the following:
- 1) death of the member;
 - 2) termination of the member's full-time employment;
 - 3) retirement of the member; or
 - 4) disability of the member for an expected period of one year or more.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
AUGUST 19 2008

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706
Email: jcar@ilga.gov
Phone: 217/785-2254*

RULEMAKINGS CURRENTLY BEFORE JCAR

PROPOSED RULEMAKINGS

Central Management Services

1. Local Government Health Plan (80 Ill. Adm. Code 2160)
 - First Notice Published: 32 Ill. Reg. 6820 – 4/25/08
 - Expiration of Second Notice: 9/15/08

Community College Board

2. Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501)
 - First Notice Published: 32 Ill. Reg. 1029 – 1/25/08
 - Expiration of Second Notice: 8/20/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

Commerce Commission

3. Safety Relocation Towing (92 Ill. Adm. Code 1715)
-First Notice Published: 32 Ill. Reg. 1189 – 2/1/08
-Expiration of Second Notice: 8/31/08

Drycleaner Environmental Response Trust Fund Council

4. General Program (35 Ill. Adm. Code 1500)
-First Notice Published: 32 Ill. Reg. 6268 – 4/18/08
-Expiration of Second Notice: 9/3/08

Education

5. Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401)
-First Notice Published: 32 Ill. Reg. 4705 – 4/4/08
-Expiration of Second Notice: 8/20/08

Emergency Management Agency

6. Registration and Reporting Requirements for Radiation Machine Service Providers (32 Ill. Adm. Code 322)
-First Notice Published: 32 Ill. Reg. 4863 – 4/11/08
-Expiration of Second Notice: 8/23/08
7. Licensing Requirements for Source Material Milling Facilities (32 Ill. Adm. Code 332)
-First Notice Published: 32 Ill. Reg. 4869 – 4/11/08
-Expiration of Second Notice: 8/23/08

Financial and Professional Regulation

8. Corrective Orders (50 Ill. Adm. Code 1250)
-First Notice Published: 32 Ill. Reg. 2633 – 2/22/08
-Expiration of Second Notice: 9/16/08
9. Environmental Health Practitioner Licensing Act (68 Ill. Adm. Code 1247)
-First Notice Published: 32 Ill. Reg. 6301 – 4/18/08
-Expiration of Second Notice: 8/13/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

10. Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act (68 Ill. Adm. Code 1485)
-First Notice Published: 32 Ill. Reg. 6323 – 4/18/08
-Expiration of Second Notice: 8/31/08

Law Enforcement Training and Standards Board

11. Illinois Police Training Act (20 Ill. Adm. Code 1720)
-First Notice Published: 32 Ill. Reg. 7250 – 5/9/08
-Expiration of Second Notice: 8/27/08

Natural Resources

12. North Point Marina (17 Ill. Adm. Code 220)
-First Notice Published: 32 Ill. Reg. 8315 – 6/6/08
-Expiration of Second Notice: 9/5/08
13. Duck, Goose and Coot Hunting (17 Ill. Adm. Code 590)
-First Notice Published: 32 Ill. Reg. 7858 – 5/23/08
-Expiration of Second Notice: 8/27/08
14. Squirrel Hunting (17 Ill. Adm. Code 690)
-First Notice Published: 32 Ill. Reg. 8322 – 6/6/08
-Expiration of Second Notice: 9/5/08
15. The Taking of Wild Turkeys – Fall Gun Season (17 Ill. Adm. Code 715)
-First Notice Published: 32 Ill. Reg. 8333 – 6/6/08
-Expiration of Second Notice: 9/5/08
16. The Taking of Wild Turkeys – Fall Archery Season (17 Ill. Adm. Code 720)
-First Notice Published: 32 Ill. Reg. 8346– 6/6/08
-Expiration of Second Notice: 9/5/08
17. Dove Hunting (17 Ill. Adm. Code 730)
-First Notice Published: 32 Ill. Reg. 8360 – 6/6/08
-Expiration of Second Notice: 9/5/08

Pollution Control Board

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

18. Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)
 - First Notice Published: 31 Ill. Reg. 14581 – 10/26/07
 - Expiration of Second Notice: 8/23/08
19. Water Quality Standards (35 Ill. Adm. Code 302)
 - First Notice Published: 31 Ill. Reg. 13624 – 10/5/07
 - Expiration of Second Notice: 8/20/08
20. Permits (35 Ill. Adm. Code 309)
 - First Notice Published: 31 Ill. Reg. 13642 – 10/5/07
 - Expiration of Second Notice: 8/20/08
21. State and NPDES Permits (35 Ill. Adm. Code 405)
 - First Notice Published: 31 Ill. Reg. 13653 – 10/5/07
 - Expiration of Second Notice: 8/20/08
22. Mine Waste Effluent and Water Quality Standards (35 Ill. Adm. Code 406)
 - First Notice Published: 31 Ill. Reg. 13660 – 10/5/07
 - Expiration of Second Notice: 8/20/08
23. Compliance and Effective Dates (Repealer) (35 Ill. Adm. Code 407)
 - First Notice Published: 31 Ill. Reg. 13668 – 10/5/07
 - Expiration of Second Notice: 8/20/08

Property Tax Appeal Board

24. Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 Ill. Adm. Code 1910)
 - First Notice Published: 32 Ill. Reg. 24 – 1/4/08
 - Expiration of Second Notice: 8/22/08

Public Health

25. Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515))
 - First Notice Published: 31 Ill. Reg. 13322 – 9/21/07
 - Expiration of Second Notice: 9/7/08

Secretary of State

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

26. Department of Personnel (80 Ill. Adm. Code 420)
-First Notice Published: 32 Ill. Reg. 2887 – 2/29/08
-Expiration of Second Notice: 8/21/08

EMERGENCY RULEMAKINGS

Aging

27. Community Care Program (89 Ill. Adm. Code 240)
-Notice Published: 32 Ill. Reg. 10940 – 7/18/08

Agriculture

28. Weights and Measures Act (8 Ill. Adm. Code 600)
-Notice Published: 32 Ill. Reg. 10963 – 7/18/08

Education

29. Special Education Facilities Under Section 14-7.02 of the school Code (Emergency Repeal of Emergency Amendments)
-Notice Published: 32 Ill. Reg. 13079 – 8/1/08

Financial and Professional Regulation

30. Professional Boxing Act (68 Ill. Adm. Code 1370)
-Notice Published: 32 Ill. Reg. 10448 – 7/11/08

Healthcare and Family Services

31. Medical Payment (89 Ill. Adm. Code 140)
-Notice Published: 32 Ill. Reg. 10480 – 7/11/08

32. Hospital Services (89 Ill. Adm. Code 148)
-Notice Published: 32 Ill. Reg. 10517 – 7/11/08

Human Services

33. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)
-Notice Published: 32 Ill. Reg. 10607 – 7/11/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

34. General Assistance (89 Ill. Adm. Code 114)
-Notice Published: 32 Ill. Reg. 10622 – 7/11/08

Natural Resources

35. Viral Hemorrhagic Septicemia Virus (17 Ill. Adm. Code 875)
-Notice Published: 32 Ill. Reg. 10636 – 7/11/08

PEREMPTORY RULEMAKING

Central Management Services

36. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 32 Ill. Reg. 12065 – 7/25/08

EXEMPT RULEMAKINGS

Pollution Control Board

37. RCRA Permit Program (35 Ill. Adm. Code 703)
-Proposed Date: 4/11/08
-Adopted Date: 7/25/08
38. Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
-Proposed Date: 4/11/08
-Adopted Date: 7/25/08
39. Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)
-Proposed Date: 4/11/08
-Adopted Date: 7/25/08
40. Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)
-Proposed Date: 4/11/08
-Adopted Date: 7/25/08
41. Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)
-Proposed Date: 4/11/08
-Adopted Date: 7/25/08
42. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

- Disposal Facilities (35 Ill. Adm. Code 724)
-Proposed Date: 4/11/08
-Adopted Date: 8/1/08
43. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)
-Proposed Date: 4/11/08
-Adopted Date: 8/1/08
44. Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726)
-Proposed Date: 4/11/08
-Adopted Date: 8/1/08
45. Standards for Owners and Operators of Hazardous Waste Facilities Operating Under A RCRA Standardized Permit (35 Ill. Adm. Code 727)
-Proposed Date: 4/11/08
-Adopted Date: 8/1/08
46. Land Disposal Restrictions (35 Ill. Adm. Code 728)
-Proposed Date: 4/11/08
-Adopted Date: 8/1/08
47. Standards for the Management of Used Oil (35 Ill. Adm. Code 739)
-Proposed Date: 4/11/08
-Adopted Date: 8/1/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

No second notices were received by the Joint Committee on Administrative Rules during the period of July 29, 2008 through August 4, 2008. 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. The Committee's next monthly meeting is scheduled for August 19, 2008 in Chicago.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.595 and 302.669, the following water quality criteria have been derived as listed. This listing updates revisions to existing criteria for the period April 1, 2008 through June 30, 2008.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; 19 Ill. Reg. 12527, September 1, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; 20 Ill. Reg. 15619, December 6, 1996; 21 Ill. Reg. 3761, March 21, 1997; 21 Ill. Reg. 7554, June 13, 1997; 21 Ill. Reg. 12695, September 12, 1997; 21 Ill. Reg. 16193, December 12, 1997; 22 Ill. Reg. 5131, March 13, 1998; 22 Ill. Reg. 10689, June 12, 1998; 22 Ill. Reg. 16376, September 11, 1998; 22 Ill. Reg. 22423, December 28, 1998; 23 Ill. Reg. 3102, March 12, 1999; 23 Ill. Reg. 6979, June 11, 1999; 23 Ill. Reg. 11774, September 24, 1999; 23 Ill. Reg. 14772, December 27, 1999; 24 Ill. Reg. 4251, March 17, 2000; 24 Ill. Reg. 8146, June 9, 2000; 24 Ill. Reg. 14428, September 29, 2000; 25 Ill. Reg. 270, January 5, 2001; 25 Ill. Reg. 4049, March 16, 2001; 25 Ill. Reg. 7367, June 8, 2001; 25 Ill. Reg. 12186, September 21, 2001; 25 Ill. Reg. 16175, December 14, 2001; 26 Ill. Reg. 4974, March 29, 2002; 26 Ill. Reg. 13370, September 6, 2002; 27 Ill. Reg. 1736, January 31, 2003; 27 Ill. Reg. 7350, April 18, 2003; 27 Ill. Reg. 17128, November 7, 2003; 28 Ill. Reg. 5038, March 19, 2004; 28 Ill. Reg. 8363, June 11, 2004; 28 Ill. Reg. 12943, September 17, 2004; 29 Ill. Reg. 1449, January 21, 2005; 29 Ill. Reg. 7239, May 20, 2005; 29 Ill. Reg. 12672, August 12, 2005; 29 Ill. Reg. 18963, November 18, 2005; 30 Ill. Reg. 5458, March 17, 2006, 30 Ill. Reg. 9195, May 12, 2006 and 30 Ill. Reg. 14377, September 1, 2006; 31 Ill. Reg. 4941, March 23, 2007; 31 Ill. Reg. 7477, May 25, 2007; 31 Ill. Reg. 13233, September 14, 2007; 31 Ill. Reg. 15875, November 26, 2007; 32 Ill. Reg. 4271, March 21, 2008 and 32 Ill. Reg. 8454, June 6, 2008.

Water quality criteria for General Use and Lake Michigan Basin Waters are listed below.

General Use human health criteria are derived for protection of primary contact waters, criteria derived for waters not supportive of primary contact recreation are specified, where applicable. Lake Michigan Basin criteria apply within waters of the Lake Michigan Basin as designated in 35 Ill. Adm. Code 303.443. Newly derived criteria or criteria used in NPDES permitting this quarter are highlighted in bold print.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

General Use Criteria

Chemical: Acenaphthene	CAS #83-32-9
Acute criterion: 120 ug/l	Chronic criterion: 62 ug/l
Date criteria derived: November 14, 1991; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Acenaphthylene	CAS # 208-96-8
Acute criterion: 190 ug/L	Chronic criterion: 15 ug/L
Date criteria derived: March 1, 1998	
Applicable waterbodies: Not used during this period.	
Chemical: Acetochlor	CAS #34256-82-1
Acute criterion: 150 ug/l	Chronic criterion: 12 ug/l
Date criteria derived: September 26, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Acetone	CAS #67-64-1
Acute criterion: 1,500 mg/l	Chronic criterion: 120 mg/l
Date criteria derived: May 25, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Acetonitrile	CAS #75-05-8
Acute criterion: 380 mg/l	Chronic criterion: 30 mg/l
Human health criterion (HTC): non-primary contact, 20 mg/L	
Date criteria derived: December 7, 1993; revised January 23, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Acrolein	CAS #107-02-8
Acute criterion: 2.7 µg/l	Chronic criterion: 0.22 µg/l
Date criteria calculated: February 1999; reviewed January 2008	
Applicable waterbodies: Not used during this period.	
Chemical: Acrylonitrile	CAS #107-13-4
Acute criterion: 910 ug/l	Chronic criterion: 73 ug/l
Human health criterion (HNC): 0.21 ug/l	
Date criteria derived: November 13, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Anthracene	CAS #120-12-7
Acute criterion: 0.66 ug/L	Chronic Criterion: 0.53 ug/L

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Human health criterion (HTC): 35 mg/l Date criteria derived: August 18, 1993, revised May 30, 2007 Applicable waterbodies: Not used during this period.
Chemical: Atrazine CAS #1912-24-9 Acute criterion: 82 ug/l Chronic criterion: 9.0 ug/L Date criteria derived: May 2, 2005 Applicable waterbodies: Not used during this period.
Chemical: Benzo(a)anthracene CAS #56-55-3 Human health criterion (HNC): 0.16 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.
Chemical: Benzo(a)pyrene CAS #50-32-8 Human health criterion (HNC): 0.016 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.
Chemical: Benzo(b)fluoranthene CAS # 205-99-2 Human health criterion (HNC): 0.16 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.
Chemical: Benzo(k)fluoranthene CAS #207-08-9 Human health criterion (HNC): 1.6 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.
Chemical: Carbon tetrachloride CAS #56-23-5 Acute criterion: 3,500 ug/l Chronic criterion: 280 ug/l Human health criterion (HNC): 1.4 ug/l Date criteria derived: June 18, 1993 Applicable waterbodies: Not used during this period.
Chemical: Chlorobenzene CAS #108-90-7 Acute criterion: 990 ug/l Chronic criterion: 79 ug/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.
Chemical: Chloroethane CAS #75-00-3 Acute criterion: 13 mg/l Chronic criterion: 1 mg/l Date criteria derived: December 11, 1991

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.	
Chemical: Chloromethane	CAS #74-87-3
Acute criterion: 16 mg/l	Chronic criterion: 1.3 mg/l
Date criteria derived: December 11, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Chloroform	CAS #67-66-3
Acute criterion: 1,900 ug/l	Chronic criterion: 150 ug/l
Human health criterion (HNC): 130 ug/l	
Date criteria derived: October 26, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Chrysene	CAS #218-01-9
Human health criterion (HNC): 16 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Dibenz(a,h)anthracene	CAS #53-70-3
Human health criterion (HNC): 0.016 ug/l	
Date criteria derived : February, 1999, reviewed June 2007	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichlorobenzene	CAS #95-50-1
Acute criterion: 210 ug/l	Chronic criterion: 17 ug/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 1,3-dichlorobenzene	CAS #541-73-1
Acute criterion: 500 ug/l	Chronic criterion: 200 ug/l
Date criteria derived: July 31, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 1,1-dichloroethane	CAS #75-34-3
Acute criterion: 20 mg/l	Chronic criterion: 2 mg/l
Date criteria derived: July 31, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichloroethane	CAS #107-06-2
Acute criterion: 25 mg/l	Chronic criterion: 4.5 mg/l
Human health criterion (HNC): 23 ug/l	
Date criteria derived: March 19, 1992	
Applicable waterbodies: Not used during this period.	

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: 1,1-dichloroethylene	CAS #75-35-4
Acute criterion: 3,000 ug/l	Chronic criterion: 240 ug/l
Human health criterion (HNC): 0.95 ug/l	
Date criteria derived: March 20, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dichlorophenol	CAS #120-83-2
Acute criterion: 630 ug/l	Chronic criterion: 83 ug/l
Date criteria derived: November 14, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichloropropane	CAS #78-87-5
Acute criterion: 4,800 ug/l	Chronic criterion: 380 ug/l
Date criteria derived: December 7, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 1,3-dichloropropylene	CAS #542-75-6
Acute criterion: 99 ug/l	Chronic criterion: 7.9 ug/l
Date criteria derived: November 13, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dimethyl phenol	CAS #105-67-9
Acute criterion: 740 ug/l	Chronic criterion: 220 ug/l
Date criteria derived: October 26, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol	CAS #534-52-1
Acute criterion: 29 ug/l	Chronic criterion: 2.3 ug/l
Date criteria derived: November 14, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dinitrophenol	CAS #51-28-5
Acute criterion: 85 ug/l	Chronic criterion: 4.1 ug/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 2,6-dinitrotoluene	CAS #606-20-2
Acute criterion: 1,900 ug/l	Chronic criterion: 150 ug/l
Date criteria derived: February 14, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Diquat	CAS #85-00-7
Acute criterion: 990 ug/l	Chronic criterion: 80 ug/l

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Date criteria derived: January 30, 1996 Applicable waterbodies: Not used during this period.	
Chemical: Ethyl mercaptan (ethanethiol)	CAS #75-08-1
Acute criterion: 17 ug/l	Chronic criterion: 2 ug/l
Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.	
Chemical: Fluoranthene	CAS #206-44-0
Acute criterion: 4.3 ug/L	Chronic Criterion: 1.8 ug/L
Human health criterion (HTC): 120 ug/l	
Date criteria derived: August 10, 1993; revised June 6, 2007 (Acute/Chronic)	
Applicable waterbodies: Not used during this period.	
Chemical: Fluorene	CAS #86-73-7
Acute criterion: 59 ug/L	Chronic Criterion: 16 ug/L
Date criteria derived: June 6, 2007 Applicable waterbodies: Not used during this period.	
Chemical: Formaldehyde	CAS #50-00-0
Acute criterion: 4.9 mg/l	Chronic criterion: 0.39 mg/l
Date criteria derived: January 19, 1993 Applicable waterbodies: Not used during this period.	
Chemical: Hexachlorobenzene	CAS #118-74-1
Human health criterion (HNC): 0.00025 ug/l	
Date criteria derived: November 15, 1991 Applicable waterbodies: Not used during this period.	
Chemical: Hexachlorobutadiene	CAS #87-68-3
Acute criterion: 35 ug/l	Chronic criterion: 2.8 ug/l
Date criteria derived: March 23, 1992 Applicable waterbodies: Not used during this period.	
Chemical: Hexachloroethane	CAS #67-72-1
Acute criterion: 380 ug/l	Chronic criterion: 31 ug/l
Human health criterion (HNC): 2.9 ug/l	
Date criteria derived: November 15, 1991 Applicable waterbodies: Not used during this period.	
Chemical: n-Hexane	CAS #110-54-3
Acute criterion: 250 ug/l	Chronic criterion: 20 ug/l
Date criteria derived: April 8, 2002	

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.	
Chemical: Indeno(1,2,3-cd)pyrene	CAS #193-39-5
Human health criterion (HNC): 0.16 ug/l	
Date criteria calculated: February, 1992, reviewed June 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Isobutyl alcohol = 2-methyl-1-propanol	CAS #78-83-1
Acute criterion: 430 mg/l	Chronic criterion: 35 mg/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Methylene chloride	CAS #75-09-2
Acute criterion: 17 mg/l	Chronic criterion: 1.4 mg/l
Human health criterion (HNC): 340 ug/l	
Date criteria derived: January 21, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Methyl ethyl ketone	CAS #78-93-3
Acute criterion: 320 mg/l	Chronic criterion: 26 mg/l
Date criteria derived: July 1, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 4-methyl-2-pentanone	CAS #108-10-1
Acute criterion: 46 mg/l	Chronic criterion: 1.4 mg/l
Date criteria derived: January 13, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 2-methyl phenol	CAS #95-48-7
Acute criterion: 4.7 mg/l	Chronic criterion: 0.37 mg/l
Date criteria derived: November 8, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 4-methyl phenol	CAS #106-44-5
Acute criterion: 670 ug/l	Chronic criterion: 120 ug/l
Date criteria derived: January 13, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Methyl tert-butyl ether (MTBE)	CAS #134-04-4
Acute criterion: 67 mg/l	Chronic criterion: 5.4 mg/l
Date criteria derived: September 18, 1997	
Applicable waterbodies: Not used during this period.	
Chemical: Metolachlor	CAS #51218-45-2

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Acute criterion: 380 ug/l Date criteria derived: February 25, 1992; revised October 1, 2007 Applicable waterbodies: Not used during this period.	Chronic criterion: 30.4 ug/l
Chemical: Naphthalene Acute criterion: 510 ug/l Date criteria derived: November 7, 1991; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #91-20-3 Chronic criterion: 68 ug/l
Chemical: 4-nitroaniline Acute criterion: 1.5 mg/l Date criteria derived: May 5, 1996 Applicable waterbodies: Not used during this period.	CAS #100-01-6 Chronic criterion: 0.12 mg/l
Chemical: Nitrobenzene Acute criterion: 15 mg/l Human health criterion (HTC): 0.52 mg/l Date criteria derived: February 14, 1992; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #98-95-3 Chronic criterion: 8.0 mg/l
Chemical: Pentachlorophenol Acute criterion: 20 ug/l Date criteria derived: national criterion at pH of 7.8, September 1986 Applicable waterbodies: Not used during this period.	Chronic criterion: 13 ug/l
Chemical: Phenanthrene Acute criterion: 46 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.	CAS #85-01-8 Chronic criterion: 3.7 ug/l
Chemical: Propylene Acute criterion: 4.0 mg/l Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.	CAS #115-07-1 Chronic criterion 0.40 mg/l
Chemical: Pyrene Human health criterion (HTC): 3.5 mg/l Date criteria derived: December 22, 1992 Applicable waterbodies: Not used during this period.	CAS #120-00-0
Chemical: Tetrachloroethylene Acute criterion: 1,200 ug/l Date criteria derived: March 23, 1992	CAS #127-18-4 Chronic criterion: 150 ug/l

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.	
Chemical: Tetrahydrofuran	CAS #109-99-9
Acute criterion: 220 mg/l	Chronic criterion: 17 mg/l
Date criteria derived: March 16, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2,4-trichlorobenzene	CAS #120-82-1
Acute criterion: 370 ug/l	Chronic criterion: 72 ug/l
Date criteria derived: December 14, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Thallium	CAS #7440-28-0
Human health criterion (HTC): 4.1 ug/l	
Date criteria derived: October 22, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: 1,1,1-trichloroethane	CAS #71-55-6
Acute criterion: 4,900 ug/l	Chronic criterion: 390 ug/l
Date criteria derived: October 26, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 1,1,2-trichloroethane	CAS #79-00-5
Acute criterion: 19 mg/l	Chronic criterion: 4.4 mg/l
Human health criterion (HNC): 12 ug/l	
Date criteria derived: December 13, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Trichloroethylene	CAS #79-01-6
Acute criterion: 12,000 ug/l	Chronic criterion: 940 ug/l
Human health criterion (HNC): 25 ug/l	
Date criteria derived: October 23, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Vinyl chloride	CAS #75-01-4
Acute criterion: 40 mg/l	Chronic criterion: 4 mg/l
Human health criterion (HNC): non-primary contact, 164 ug/l	
Date criteria derived: October 23, 1992; revised January 23, 2007	
Applicable waterbodies: Not used during this period.	

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Lake Michigan Basin Criteria

Chemical: Bis(2-ethylhexyl)phthalate <u>Aquatic Life Criteria:</u> Acute criterion: 76 ug/l <u>Human Health Non-threshold Criteria:</u> Drinking water: 2.8 ug/l Date criteria derived: June 20, 2006 Applicable waterbodies: Not used during this period.	CAS #117-81-7 Chronic criterion: 17 ug/l Non-drinking water: 3.2 ug/l
Chemical: Methylene Chloride <u>Aquatic Life Criteria:</u> Acute criterion: 10,803 ug/l <u>Human Health Non-threshold Criteria:</u> Drinking water: 47 ug/l Date criteria derived: June 20, 2006 Applicable waterbodies: Not used during this period.	CAS #75-09-2 Chronic criterion: 1,200 ug/l Non-drinking water: 2,600 ug/l
Chemical: Vinyl Chloride <u>Aquatic Life Criteria:</u> Acute criterion: 8,380 ug/l <u>Human Health Non-threshold Criteria:</u> Drinking water: 0.25 ug/l Date criteria derived: June 20, 2006 Applicable waterbodies: Not used during this period.	CAS #75-01-4 Chronic criterion: 931 ug/l Non-drinking water: 14.4 ug/l

For additional information concerning these criteria or the derivation process used in generating them, please contact:

Brian Koch
 Illinois Environmental Protection Agency
 Division of Water Pollution Control
 1021 North Grand Avenue East
 Post Office Box 19276
 Springfield, Illinois 62794-9276
 217/558-2012

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2008 SECOND QUARTER INCOME TAX SUNSHINE INDEX

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

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

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

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

Alternative Apportionment
Bingo, Pull Tabs And Charitable Games
Credits – Foreign Tax
Extensions
Public Law 86-272/Nexus
Withholding – Employee Benefits
Withholding – Exemptions

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2008 SECOND QUARTER INCOME TAX SUNSHINE INDEX

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50 cents per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov.

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006 and 2007 are available for \$3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

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

Linda Settle
Illinois Department of Revenue
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-7055

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2008 SECOND QUARTER INCOME TAX SUNSHINE INDEX

ALTERNATIVE APPORTIONMENT

IT 08-0001-PLR 05/19/2008 Petition is granted to eliminate sales between a partnership and other members of its unitary business group in computing the apportionment factor.

BINGO, PULL TABS AND CHARITABLE GAMES

IT 08-0015-GIL 04/24/2008 Home rule municipalities are not exempt from bingo licensing requirements.

CREDITS – FOREIGN TAX

IT 08-0018-GIL 04/29/2008 Taxpayers may not claim a credit for taxes imposed by Kentucky directly on a partnership, Subchapter S corporation or other entity that is treated as a pass-through entity for Illinois income tax purposes.

EXTENSIONS

IT 08-0016-GIL 04/29/2008 Taxpayers who receive an extension of time to file federal income tax returns are automatically allowed the same extension of time to file their corresponding Illinois income tax returns.

IT 08-0017-GIL 04/29/2008 Taxpayers who receive an extension of time to file federal income tax returns are automatically allowed the same extension of time to file their corresponding Illinois income tax returns.

PUBLIC LAW 86-272/NEXUS

IT 08-0019-GIL 06/20/2008 The request contains insufficient information for offering guidance on the application of Public Law 86-272.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2008 SECOND QUARTER INCOME TAX SUNSHINE INDEX

WITHHOLDING – EMPLOYEE BENEFITS

IT 08-0014-GIL 04/21/2008 Payments of employee benefits that are not subject to federal income tax withholding are also not subject to Illinois income tax withholding.

WITHHOLDING – EXEMPTIONS

IT 08-0013-GIL 04/14/2008 Individual owners of pass-through entities are not eligible to provide the pass-through entities with certificates exempting themselves from withholding.

PROCLAMATIONS

2008-305**Ukrainian Independence Day**

- WHEREAS, on August 24, 1991, the Parliament of Ukraine formally declared its independence from the Soviet Union, but in the aftermath, the economy and quality of life in Ukraine suffered; and
- WHEREAS, in response, the Ukrainian people showed their unity and desire to live in a democratic society by organizing a non-violent uprising throughout Ukraine, known as the Orange Revolution, that resulted in the free and fair election of Viktor Yushchenko as Ukraine's new president in December 2004; and
- WHEREAS, throughout the centuries, the struggle of Ukrainians to achieve an independent state cost millions of lives, including the most egregious of crimes – the Ukrainian Genocide of 1932-1933 – in which seven to ten million innocent victims were starved to death; and
- WHEREAS, this year marks the 75th anniversary of the Ukrainian Genocide, and together with the government of Ukraine, the Ukrainian community of Illinois is dedicating much of 2008 to raising global awareness of this tragic event so that such heinous crimes are never repeated; and
- WHEREAS, in this seventeenth year of independence, the Ukrainian people once again showed their desire to live in a democratic society by holding democratic parliamentary elections; and
- WHEREAS, Ukraine recently achieved its goal of joining the World Trade Organization, a valuable objective for Ukraine's pro-Western government that will assist in attracting much-needed foreign investment and improve the living standards for its 48 million citizens, as well as help position Ukraine within the global market economy; and
- WHEREAS, Americans have a vital interest in the success of democracy and freedom in Ukraine, and Ukrainians around the world, including those in the United States and the State of Illinois, anxiously await their progress:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 24, 2008 as **UKRAINIAN INDEPENDENCE DAY** in Illinois in recognition of the 17th anniversary of Ukrainian Independence, and in support of the worthy efforts of the Ukrainian people to establish a stable and prospering republic.

PROCLAMATIONS

Issued by the Governor July 25, 2008
Filed by the Secretary of State August 4, 2008.

2008-306
Jobs For Youth Month

- WHEREAS, joblessness remains one of the most critical problems facing the inner city; and
- WHEREAS, Jobs For Youth (JFY) is a non-profit organization founded in 1979 that provides its services free of charge to young people and employers, its mission being to help young men and women from low-income families become a part of the economic mainstream, and in the process, to provide the business community with motivated, job-ready workers; and
- WHEREAS, JFY builds bridges between the inner city and the business community, helping youth from low-income families secure well paying jobs; and
- WHEREAS, JFY's core program includes pre-employment training, job placement, GED instruction, and supportive services; and
- WHEREAS, since its founding, JFY has helped more than 17,500 young people between the ages of 17-24 and made more than 25,000 job placements; and
- WHEREAS, JFY currently serves more than 1,200 youths annually from neighborhoods throughout the City of Chicago and adjacent lower-income suburbs, and makes over 1,000 job placements with up to 600 employers in a wide variety of fields ranging from health care to retail, hospitality, financial services, security, small businesses, corporate offices, and much more; and
- WHEREAS, over the years, the work of JFY and its thousands of volunteers have received considerable recognition, locally and nationally including five separate State of Illinois Governor's Hometown Awards during the terms of three different Governors and the President's Volunteer Action Award, presented by President George H. W. Bush; and
- WHEREAS, at Jobs For Youth, career development is seen as a holistic life-long process. Clients are taught the skills that they need to achieve their academic and employment goals and continue on the path to self-sufficiency:

PROCLAMATIONS

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 2008 as **JOBS FOR YOUTH MONTH** in Illinois, in recognition of the outstanding dedication of JFY to our young people, who represent our greatest resource.

Issued by the Governor July 25, 2008
Filed by the Secretary of State August 4, 2008.

2008-307**National Convention of Gospel Choirs and Choruses Week**

WHEREAS, the National Convention of Gospel Choirs and Choruses, Inc. (NCGCC) will convene in Chicago on August 2-9, 2008; and

WHEREAS, the NCGCC is the oldest non-denominational gospel music organization, founded by the founder of gospel music, the late Professor Thomas Andrew Dorsey; and

WHEREAS, organized in Chicago in 1932 at the Pilgrim Baptist Church, the National Convention of Gospel Choirs and Choruses held its first session on August 30, 1933; and

WHEREAS, the mission of the NCGCC is to preserve the gospel heritage and perpetuate Dr. Dorsey's legacy through excellence in gospel music ministry; and

WHEREAS, the NCGCC currently has 48 unions throughout the United States, and Chicago has been honored to host the 75th Diamond Celebration; and

WHEREAS, current National President, Bishop Kenneth H. Moales, Sr., the National Chairman of the Board, George "Buddy" Davis, Host Pastor of Pilgrim Baptist Church, Reverend Keith Gordon, and President of the Thomas A. Dorsey Chicago Choral Union, Reverend Loreta Garrett will all be in attendance for this year's convention:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 2-9, 2008 as **NATIONAL CONVENTION OF GOSPEL CHOIRS AND CHORUSES WEEK** in Illinois.

Issued by the Governor July 25, 2008
Filed by the Secretary of State August 4, 2008.

2008-308**Silver Star Day**

PROCLAMATIONS

WHEREAS, the State of Illinois has always honored the sacrifice of the men and women in the Armed Forces; and

WHEREAS, The Silver Star Families of America was formed to make sure we remember the blood sacrifice of our wounded by designing and manufacturing a Silver Star Banner and Flag; and

WHEREAS, to date, The Silver Star Families of America has freely given out hundreds of Silver Star Banners to the wounded and their families; and

WHEREAS, the members of The Silver Star Families of America have worked tirelessly to provide the wounded of this State and Country with Silver Star Banners, Flags, and care packages; and

WHEREAS, The Silver Star Families of America's sole mission is to honor the blood sacrifice of our wounded with a Silver Star Banner that can be used in a window or a Silver Star Flag for passersby to recognize the sacrifice by that Armed Service member; and

WHEREAS, the State of Illinois joins The Silver Star Families of America in their commitment to make sure that the sacrifice of so many in our Armed Forces never be forgotten:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 1, 2009 as **SILVER STAR DAY** in Illinois, and encourage all citizens to join in the mission of The Silver Star Families of America and honor all of our wounded Armed Service members.

Issued by the Governor July 29, 2008

Filed by the Secretary of State August 4, 2008

2008-309
NASA Day

WHEREAS, this year the National Aeronautics and Space Administration (NASA) is celebrating its 50th anniversary of space exploration, scientific discovery and research; and

WHEREAS, NASA is now nearing completion of the International Space Station and retiring the space shuttle fleet while looking forward to the next generation of spacecraft that will continue exploration; and

PROCLAMATIONS

- WHEREAS, Illinois is proud to contribute to this mission through involvement from the academic community, as well as the commercial and private sectors; and
- WHEREAS, space related business located in Illinois provides millions of dollars in direct contracts from NASA funding; and
- WHEREAS, in celebration of its 50th anniversary, NASA is planning a series of Future Forums – opportunities for NASA leadership, astronauts, scientists, and engineers along with local business, technology and academic leaders and local, state and federal officials to discuss the role of space exploration in advancing science, engineering, technology, education and the economy; and
- WHEREAS, the Future Forum program also features an exciting preview of NASA's Constellation Program – America's return to the Moon and beyond; and
- WHEREAS, one such Future Forum will be held in Chicago on October 9:
- THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 9, 2008 as NASA DAY in Illinois, in recognition of the National Aeronautics and Space Administration's 50th anniversary.

Issued by the Governor July 29, 2008
Filed by the Secretary of State August 4, 2008

2008-310**Alzheimer's Disease Awareness Month**

- WHEREAS, today, more than 5 million Americans are living with Alzheimer's throughout the United States. In the State of Illinois, there are more than 210,000 adults currently afflicted by the disease; and
- WHEREAS, a progressive, degenerative disease of the brain, Alzheimer's is the most common form of dementia. It results in impaired memory, thinking and behavior, and usually begins gradually, causing a person to forget recent events and to have difficulty performing familiar tasks; and
- WHEREAS, 1 in 8 adults age 65 and over, and nearly half of those over the age of 85 have Alzheimer's, as well as a small percentage of Americans under 65; and

PROCLAMATIONS

WHEREAS, Alzheimer's disease is the sixth leading cause of the death in the United States; and

WHEREAS, those who have Alzheimer's live an average of 20 years from the onset of symptoms, and only an average of 7 years after diagnosis; and

WHEREAS, unfortunately, there is no form of prevention or known cure for Alzheimer's, and unless any are found, it is estimated that as many as 16 million Americans may have the disease by the year 2050; and

WHEREAS, the Alzheimer's Association's mission is to eliminate Alzheimer's disease through the advancement of research, to provide and enhance care and support for all affected, and the reduce the risk of dementia through the promotion of brain health; and

WHEREAS, the month of November has been set aside as Alzheimer's Disease Awareness Month to promote advocacy activities and the study of Alzheimer's disease and to honor those whose lives have been impacted by Alzheimer's:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 2008 as **ALZHEIMER'S DISEASE AWARENESS MONTH** in Illinois to raise awareness about Alzheimer's, and in support of efforts to combat this debilitating disease that affects so many families in our state.

Issued by the Governor July 30, 2008

Filed by the Secretary of State August 4, 2008.

2008-311**Indian Independence Day**

WHEREAS, it is my distinct pleasure to join the Indo-American community in celebrating India's 61st Anniversary of Independence; and

WHEREAS, Indian Independence marks the anniversary of perhaps the most significant event in the history of the nation of India; and

WHEREAS, a colony of the British Empire, during the first half of the twentieth century, a nationwide struggle for independence was launched by the Indian National Congress and other political organizations; and

PROCLAMATIONS

WHEREAS, in the 1920's and 1930's, as part of a movement led by Mahatma Gandhi, and displaying a commitment to ahimsa, or non-violence, millions of protesters engaged in mass campaigns of civil disobedience; and

WHEREAS, finally, on August 15, 1947, India gained independence from British rule; and

WHEREAS, three years later, on January 26, 1950, India became a republic and a new constitution came into effect. Today India is the most populous democracy in the world; and

WHEREAS, now, over half a century later, Indians all across the globe gather to commemorate the birth of their freedom; and

WHEREAS, here in Illinois, the Indo-American community is flourishing, and I am proud of the many significant contributions that they have made to the state:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 15, 2008 as **INDIAN INDEPENDENCE DAY** in Illinois in recognition of India's 61st Anniversary of Independence, and in tribute to all the Indo-Americans who call Illinois their home.

Issued by the Governor July 30, 2008

Filed by the Secretary of State August 4, 2008.

2008-312**Recognition of Dunn Fellows**

WHEREAS, the James H. Dunn, Jr. Memorial Fellowship Program was established in 1981 by Executive Order 7 to honor a Rockford, Illinois citizen for his outstanding contribution to public service; and

WHEREAS, the James H. Dunn Fellowship Program honors bright, highly motivated individuals, giving them a broad overview of state government through placement as a fellow in the Office of the Governor of Illinois; and

WHEREAS, fellows are selected by a national search and rigorous application process consisting of recent college graduates who demonstrate exemplary academic performance, strong community leadership, and a commitment to a future of public service; and

PROCLAMATIONS

WHEREAS, the program affords honorees experience in budgetary, legislative, and programmatic areas of state government that will benefit them as public service professionals and provide them with a unique opportunity to advance into policy-making positions.

THEREFORE, be it proclaimed that on the thirty-first of July, in the year two thousand and eight, the following individuals have completed their fellowship term, providing exceptional service to the State of Illinois during their tenure as James H. Dunn Fellows:

Brianna Baker-Carvell
Max Bever
Michael Clark
Anthony Filipiak
Adam Howell
Cara Jackson
Elizabeth Lostracco
Armand Mvogo
Kristin Paulson
Jordan Powell
Jeremy Riel
Stacey Smith
Jasmine Talton
Ryan Vanderbilt
Jaime Willis

Issued by the Governor July 31, 2008

Filed by the Secretary of State August 4, 2008

2008-313**National Alpaca Farm Days**

WHEREAS, the Alpaca is a domesticated species of South American camelid developed from the wild alpacas; and

WHEREAS, although the Alpaca resembles a sheep in appearance, it is larger, has a long erect neck, and comes in many colors; and

WHEREAS, the Alpaca is known worldwide for its luxurious fiber, which is used to make warm, light weight clothing for cold weather; and

PROCLAMATIONS

WHEREAS, Alpaca farming has a reasonably low environmental impact, and allows farmers to maintain green space and keep the family farm in existence; and

WHEREAS, due to its superior fiber and environmental efficiency, Alpaca breeding is flourishing around the Unites States, including in Illinois; and

WHEREAS, the last weekend in September is observed by the Alpaca Owners and Breeders Association as National Alpaca Farm Days, and Illinois Association members all around the state will celebrate the occasion during public events:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 27-28, 2008 as **NATIONAL ALPACA FARM DAYS** in Illinois to join the Illinois Alpaca Owners and Breeders Association and its members in celebrating this special livestock.

Issued by the Governor July 31, 2008

Filed by the Secretary of State August 4, 2008.

ILLINOIS ADMINISTRATIVE CODE

Issue Index - With Effective Dates

Rules acted upon in Volume 32, Issue 33 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

50 - 930	13374
50 - 1408	13397
50 - 4203	13439

ADOPTED RULES

14 - 510	7/29/2008.....	13443
38 - 800	8/1/2008.....	13475
56 - 2520	8/1/2008.....	13482
71 - 2300	8/1/2008.....	13497
56 - 240	7/31/2008.....	13504
11 - 302	8/1/2008.....	13522
11 - 311	8/1/2008.....	13525
11 - 320	8/1/2008.....	13530
80 - 1650	8/6/2008.....	13534

EXECUTIVE ORDERS AND PROCLAMATIONS

08 - 305	7/25/2008.....	13609
08 - 306	7/25/2008.....	13610
08 - 308	7/29/2008.....	13611
08 - 307	7/25/2008.....	13611
08 - 309	7/29/2008.....	13612
08 - 310	7/30/2008.....	13613
08 - 311	7/30/2008.....	13614
08 - 312	7/31/2008.....	13615
08 - 313	7/31/2008.....	13616

ORDER FORM

<input type="checkbox"/> Subscription to the Illinois Register (52 Issues) <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Electronic Version of the Illinois Register (E-mail Address Required) <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Back Issues of the Illinois Register (Current Year Only) Volume # _____ Issue# _____ Date _____	\$ 10.00 (each)
<input type="checkbox"/> Microfiche sets of the Illinois Register 1977 – 2003 Specify Year(s) _____	\$ 200.00 (per set)
<input type="checkbox"/> Cumulative/Sections Affected Indices 1990 - 2005 Specify Year(s) _____	\$ 5.00 (per set)
(Processing fee for credit cards purchases, if applicable.)	\$ 2.00
TOTAL AMOUNT OF ORDER \$ _____	

Check Make Checks Payable To: **Secretary of State**

VISA Master Card Discover (There is a \$2.00 processing fee for credit card purchases.)

Card #: _____ Expiration Date: _____

Signature: _____

Send Payment To: Secretary of State
 Department of Index
 Administrative Code Division
 111 E. Monroe
 Springfield, IL 62756

Fax Order To: (217) 524-0308

Name:	Attention:	ID #:
Address:		
City:	State:	Zip Code:
Phone:	Fax:	E-Mail:

Published by **JESSE WHITE** • Secretary of State
www.cyberdriveillinois.com